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# Transcript of Hearing - Day 1

**Date:** January 31, 2022

**Case:** EYA Development, LLC

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Transcript of Hearing - Day 1  
January 31, 2022

1 (1 to 4)

1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS FOR MONTGOMERY COUNTY, MARYLAND -----x In Re: : EYA DEVELOPMENT, LLC, and : BL STRATHMORE, LLC : Case No. LMA H-143 -----x HEARING - Day 1 (Held Remotely) Before Hearing Examiner Derek Baumgardner Rockville, Maryland Monday, January 31, 2022 9:37 a.m. Job: 429670 Pages: 1 - 223 Transcribed by: Molly Bugher	3	ALSO PRESENT TELEPHONICALLY CONTINUED KIP EDWARDS CYNTHIA WERTZ KATY PREBBLE
2	A P P E A R A N C E S ON BEHALF OF MONTGOMERY COUNTY OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS: DEREK BAUMGARDNER, HEARING OFFICER ON BEHALF OF THE APPLICANT: ERIN GIRARD, ESQUIRE MILES & STOCKBRIDGE 11 N. Washington Street Suite 700 Rockville, MD 20850-4229 Phone: 301-762-1600 ON BEHALF OF GARRET PARK ESTATES and WHITE FLINT CIVIC ASSOCIATION: DAVID SHAFFER, ESQUIRE DAVID SHAFFER LAW 1629 K Street NW, Suite #300 Washington, DC 2000 Phone: 202-508-1490 ALSO PRESENT TELEPHONICALLY: AUSTIN COSTELLO, COURT REPORTER DOUG BURDIN VANESSA LIDE GERILEE BENNETT ARTHUR RIBEIRO	4	C O N T E N T S PAGE OPENING STATEMENTS By Ms. Girard 16 TESTIMONY Jack Lester 20 Brenda Bacon 45 Jeff Amateau 67 Josh Sloan 95 Katie Wagner 153 E X H I B I T S PAGE Exhibit 35 Utility plan 73 Exhibit 37 Circulation plan 65 Exhibit 40 Zone Plan 24 Exhibit 41 Revised open space plan 114 Exhibit 46 Stormwater exhibit 72 Exhibit 47 LATR w/attachments 164 Exhibit 49A Amateau resume 69 Exhibit 49D Wagner resume 154 Exhibit 52 Preliminary forest plan 109 Exhibit 58B Color rendering 49

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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER BAUMGARDNER: -- County Office of</p> <p>3 Zoning and Administrative Hearings. This is case LMA 143,</p> <p>4 the rezoning of a property located at 4910-4920 Strathmore</p> <p>5 Avenue located in Montgomery County Maryland. This is an</p> <p>6 application to rezone the property from the R60 zone to the</p> <p>7 CRNF, which is commercial residential neighborhood loading</p> <p>8 zone.</p> <p>9 If everyone can go on camera if you have the</p> <p>10 ability to do so, we're going to go over some basics of this</p> <p>11 particular format, some basics of the hearing process we have</p> <p>12 here at OZAH. We will identify the parties of record and</p> <p>13 anyone else who is logged in so we can begin shortly. As I</p> <p>14 mentioned, my name is Derek Baumgardner. I'm the Hearing</p> <p>15 Examiner for this particular case, which means that I will</p> <p>16 listen to you today, taken evidence, write a decision, or in</p> <p>17 this case a recommendation, which will then be forwarded to</p> <p>18 the Montgomery County Council sitting as the district</p> <p>19 council. You may request oral argument if you do not like</p> <p>20 that decision, in front of the district council after that</p> <p>21 decision is rendered.</p> <p>22 A couple of basics, we are joined by our court</p> <p>23 reporter, Austin Costello. We thank him very much for being</p> <p>24 here. This hearing is also being recorded, which I will</p> <p>25 start now. You should be seeing a banner roll across the top</p>	<p style="text-align: right;">7</p> <p>1 that problem on Friday where there was a loud heating unit in</p> <p>2 the office that was causing interference. Please do not have</p> <p>3 two devices are locked into this platform in the same room.</p> <p>4 If you have a phone and a laptop or two separate</p> <p>5 devices, that can also cause a lot of interference between</p> <p>6 those two devices. We're going to avoid crosstalk or</p> <p>7 interrupting folks as they are testifying, that -- we avoid</p> <p>8 that during regular hearings. We are especially cognizant of</p> <p>9 that over the virtual hearing format as it becomes difficult</p> <p>10 for the court reporter to hear what is going on and it</p> <p>11 becomes difficult for me to hear what is going on.</p> <p>12 The general process for these hearings is that the</p> <p>13 Applicant will go first. They will have the opportunity to</p> <p>14 present their case in chief. They will call any witnesses</p> <p>15 that they would like to call. They will ask that witness</p> <p>16 questions. Other folks who are logged in will have the</p> <p>17 opportunity to ask that witness questions as well. When that</p> <p>18 witness is done, the Applicant will move on to their next</p> <p>19 witness.</p> <p>20 The Applicant will call as many witnesses as they</p> <p>21 like. When they are done they will close their case in chief</p> <p>22 and then we will turn it on -- turn it over to any other</p> <p>23 parties that would like to call witnesses or ask questions.</p> <p>24 Counsel for the Applicant will then have the ability to</p> <p>25 cross-examine or to ask questions of those witnesses. The</p>
<p style="text-align: right;">6</p> <p>1 of your screen. We also have the court reporter transcript</p> <p>2 which will be available within 10 days after the hearing as</p> <p>3 our primary transcript with the Microsoft Teams recording as</p> <p>4 a backup.</p> <p>5 A couple of rules about our cases here today, the</p> <p>6 procedures and how we will be moving forward. But no doubt</p> <p>7 you can tell we're using a virtual hearing format called</p> <p>8 Microsoft Teams. This allows us to have remote or virtual</p> <p>9 hearings. There are a couple of things that you should be</p> <p>10 keeping in mind. First, when you are speaking, please speak</p> <p>11 somewhat slowly and clearly. If you can intensely articulate</p> <p>12 your words, that is very helpful.</p> <p>13 Often times the microphones can have difficulty</p> <p>14 picking certain things up. Please sit close to your device,</p> <p>15 whatever you might be using, so that there is not a lot of</p> <p>16 distance. That can also cause interference or otherwise make</p> <p>17 it difficult for everyone to hear what you're saying. If you</p> <p>18 have any problems with the virtual format we're using or if</p> <p>19 you get kicked off or something like that, our phone number</p> <p>20 for the office is 240 (inaudible) 7-6663. And again, the</p> <p>21 numbers 240-777-6663.</p> <p>22 A couple of ground rules regarding our hearings in</p> <p>23 the virtual hearing format. Please mute yourselves when you</p> <p>24 are not speaking or asking a question. Often times</p> <p>25 background noise, kids, pets, doors, heating units, we had</p>	<p style="text-align: right;">8</p> <p>1 community members, other folks, that will be your opportunity</p> <p>2 to provide direct testimony regarding this application.</p> <p>3 So the first phase, we're going to hear from the</p> <p>4 Applicant and their witnesses. In the second phase, we will</p> <p>5 hear from any community members in support or in opposition</p> <p>6 to this application. That's -- both sides will be given the</p> <p>7 opportunity to give an opening statement if they so wish. In</p> <p>8 both sides will be able to give a closing statement if they</p> <p>9 so wish.</p> <p>10 In this particular case we have three parties of</p> <p>11 record. We have the Applicant, who is represented by Ms.</p> <p>12 Girard. We have the community association who is represented</p> <p>13 by Mr. Shaffer. And then we have Mr. Burdin as well who --</p> <p>14 my understanding is representing -- or not representing, will</p> <p>15 be speaking for himself today. So what I would like to do</p> <p>16 right now is to verify and identify counsel for the two</p> <p>17 parties. And then Mr. Burdin.</p> <p>18 And then after that we will identify anyone else</p> <p>19 who is interested in testifying here today or tomorrow who is</p> <p>20 not represented by counsel. So we will start with counsel</p> <p>21 first and we will start with the Applicant's counsel. And if</p> <p>22 you can, identify yourself for the record. Please give us</p> <p>23 your name, your personal address, and your professional email</p> <p>24 address.</p> <p>25 MS. GIRARD: Sure. Good morning everyone. This</p>

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<p style="text-align: right;">9</p> <p>1 is Erin Girard with Miles &amp; Stockbridge, 11 N. Washington  2 Street, Suite 700, Rockville, Maryland. Email, it's a long  3 one, EGirard@MilesStockbridge.com. And I'm here on behalf of  4 Applicants.  5 MR. BAUMGARDNER: Thank you, Ms. Girard. Can you  6 introduce who you have with you here today?  7 MS. GIRARD: Sure. With me here today is Jack  8 Lester. He is going to be our first witness with EYA  9 Development LLC. Then we will call Brenda Bacon. She's with  10 BL Strathmore LLC, the Applicant, Jeff Amateau from Vika,  11 Josh Sloan from Vika, Katie Wagner from Gorove/Slade and also  12 in attendance on our side we have Pam Lee with EYA, Wyndham  13 Robertson with EYA, Ken Segarnick with Brandywine. Did I get  14 everyone on our side? I think that's it for our side.  15 MR. MCLAURIN: Jack McLaurin.  16 MS. GIRARD: Oh, sorry, Jack. And Jack McLaurin,  17 we identified as a potential witness. I don't intend to call  18 him as our case in chief. He is more rebuttal if needed.  19 MR. BAUMGARDNER: All right. Thank you, very  20 much. Mr. Shaffer, are you with this, sir?  21 MR. SHAFFER: Yes. Can you hear me okay?  22 MR. BAUMGARDNER: Yes, we can.  23 MR. SHAFFER: Okay.  24 MR. BAUMGARDNER: Can you give us your name, your  25 professional address, and your professional email address,</p>	<p style="text-align: right;">11</p> <p>1 retired. I do live on Strathmore right next to the  2 development. And my email is DBurdin@Verizon.net.  3 MR. BAUMGARDNER: Thank you. And so we can make  4 sure that things are getting mailed to the right place, what  5 is your home address, sir? Mr. Burdin, are you still there?  6 COURT REPORTER: Looks like you may have muted  7 yourself.  8 MS. BEHANA: Yeah, Mr. Burdin, you are on mute.  9 No, take it off one more time. You had it for a second. At  10 the top of the page there is a microphone next to the camera.  11 MR. BAUMGARDNER: So I can do it Sara.  12 MS. BEHANA: Okay.  13 MR. BURDIN: Okay.  14 MR. BAUMGARDNER: There you go.  15 MR. BURDIN: That's good, right?  16 MR. BAUMGARDNER: Yes, that is good.  17 MR. BURDIN: Thought I had it. Douglas Scott  18 Burdin, 5112 Strathmore Avenue, Rockville, Maryland, 20852.  19 And email is DBurdin@Verizon.net.  20 MR. BAUMGARDNER: Perfect. Thank you, sir. A  21 couple of things I missed earlier in this Microsoft Team's  22 platform are the icons. If you look at your screen towards  23 the top towards the right hand side there are several icons.  24 If you roll your cursor over the first one it kind of looks  25 like two little people I suppose. That is the show</p>
<p style="text-align: right;">10</p> <p>1 please?  2 MR. SHAFFER: David Shaffer, I'm with David  3 Shaffer Law PLLC at 1629 K Street NW, Washington DC, Suite  4 300, 20006. My email is David.Shaffer@DavidShafferLaw.com  5 MR. BAUMGARDNER: Thank you, very much, sir. Can  6 you identify who you have here today including witnesses?  7 MR. SHAFFER: I have Ted Edwards, president of the  8 (inaudible) Parks Association. I have Arthur Rubinstein, a  9 member of the Association, who lives on Strathmore. And I  10 may have Vanessa Wright (sic), but I'm not sure if she is  11 here or not.  12 MR. BAUMGARDNER: Okay. Thank you, very much.  13 MR. RIBEIRO: Can I just interrupt? Sorry. My  14 name is not Arthur Rubinstein. My name is Arthur Ribeiro.  15 MR. SHAFFER: I apologize, Arthur. Names have  16 never been a strong point of mine.  17 MR. BAUMGARDNER: Noted. Thank you very much,  18 sir. And now if we can identify any -- so we have Mr. Burdin  19 as well. Mr. Burdin, are you there sir?  20 MR. BURDIN: Yes, I am.  21 MR. BAUMGARDNER: Please give us your full name,  22 your business address, and a good email address for you,  23 please.  24 MR. BURDIN: Okay. My name is Douglas Scott  25 Burdin. I do not have a business address because I'm</p>	<p style="text-align: right;">12</p> <p>1 participants tab. If you click on that it should bring a  2 drop-down box on the right-hand side of your screen which  3 shows the names of folks who are signed in here today.  4 To the right of that is the show conversation or  5 the chat feature. We do not use the chat feature. That  6 allows you to send messages and things like that. We do not  7 use that for hearings. To the right of that is another icon.  8 If you roll your cursor over it will bring down several  9 emoticon type things. The only one of those that we do use  10 is the virtual raise your hand feature. It looks like a  11 little hand giving you a high-five.  12 If you have a question, if you have an issue, if  13 there is something that you're trying to bring to my  14 attention, you can raise your virtual hand by clicking on  15 that hand. That pops up on my screen and let me know that  16 you have a particular issue. As we have a lot of folks  17 assigning today that will be helpful because there's only so  18 many little windows that I can see at one time during the  19 hearing.  20 And then to the right of that, one, two, three  21 over, or the toggles to be able to control your video, your  22 audio, and then your share screen feature, which most of you  23 will probably not be using the share screen feature today.  24 All right. So turning back over to identifying folks. If  25 there's anyone who would like to testify either today or</p>

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<p style="text-align: right;">13</p> <p>1 tomorrow or possibly Wednesday, today who is not represented 2 by counsel and it is not the Applicant, Mr. Shaffer, or Mr. 3 Burdin, please identify yourself for the record and give me 4 your address and a good email address. So now is the time to 5 unmute yourself. And again, this is for folks who would like 6 to testify who are not represented by counsel. 7 MS. WEITZ: Hello. 8 MR. BAUMGARDNER: Yes, ma'am. 9 MS. WEITZ: Yes. I may want to testify. 10 MR. BAUMGARDNER: Okay. 11 MS. WEITZ: I have some restrictions with my time 12 today and tomorrow though. My name is Cynthia Weitz and I am 13 a resident at 5305 Strathmore Avenue in Kensington. And I am 14 a member of the Strathmore Place Homeowners Association. 15 MR. BAUMGARDNER: Okay. You have a good email 16 address, ma'am? 17 MS. WEITZ: Yes, I do. It is WeitzCyn@MSN.com. 18 MR. BAUMGARDNER: Thank you, very much. And who 19 also like to testify here today is not represented by 20 counsel? 21 MS. PREBBLE: I would like to identify and testify 22 today. 23 MR. BAUMGARDNER: Okay. 24 MS. PREBBLE: My name is Katie Prebble. I'm the 25 president of the Academy of the Holy Cross. We are at 4920</p>	<p style="text-align: right;">15</p> <p>1 20896. 2 MR. BAUMGARDNER: Thank you, Councilwoman. 3 All right. With that, I do want to mention if you 4 see my head down, I am writing notes. Or if you see my head 5 turned towards war right and my left, I have a second screen. 6 So I'm not off doing other items. I am taking notes longhand 7 because that's how I do things, or using a second screen to 8 look at the exhibits that are referenced during the hearing. 9 With that, we're going to begin our hearing. 10 Before we start the Applicant's case in chief, are 11 there any preliminary matters that we have to do with first 12 Ms. Girard? 13 MS. GIRARD: Not for me. 14 MR. BAUMGARDNER: Mr. Shaffer, were there any 15 preliminary matters that we needed to handle first? 16 MR. SHAFFER: No, but your face just disappeared 17 from my screen. So is that something everybody is seeing or 18 is that just on my computer? 19 MR. BAUMGARDNER: So depending upon the setting 20 you have on Teams, sometimes as a voice-activated setting or 21 it can be a screen activated setting. There are a number of 22 different formats that each individual person can set up with 23 Teams depending on how they would like to view the screen. 24 MR. SHAFFER: (Inaudible). 25 MR. BAUMGARDNER: It could be that.</p>
<p style="text-align: right;">14</p> <p>1 Strathmore Avenue. In my email address is KPrebble -- first 2 initial, last name -- @AcademyoftheHolyCross.org. 3 MR. BAUMGARDNER: Thank you very much, ma'am. Is 4 there anyone else who would like to testify here today? I 5 say virtual hand raised by a Vanessa Lide, Lide. 6 MS. LIDE: Lide, yes. I'm just clarifying that 7 yes, I am here and I will testify with the Garrett Park 8 Estates White Flint Park group. 9 MR. BAUMGARDNER: Okay. Will you be testifying in 10 your own capacity or as with the Association? 11 MS. LIDE: I will happily testify with the 12 Association (inaudible). 13 MR. BAUMGARDNER: Okay. 14 MR. SHAFFER: I'll do the direct on her. This is 15 David Shaffer. 16 MR. BAUMGARDNER: Understood. Thank you very 17 much, Mr. Shaffer. Going down the line, we also have Gerilee 18 Bennett as well. 19 MS. BENNETT: Hello, can you hear me? 20 MR. BAUMGARDNER: Yes, ma'am. 21 MS. BENNETT: Great. Yes, my name is Gerille 22 Bennett. I'm in town councilmember represented the town of 23 Garrett Park and I would like to testify today or tomorrow. 24 My email address is CouncilGerilee@GarrettParkMD.gov. And 25 our mailing address is PO Box 84, Garrett Park, Maryland,</p>	<p style="text-align: right;">16</p> <p>1 MR. SHAFFER: All right. I'll sign out and sign 2 back on I will do it quickly. 3 MR. BAUMGARDNER: Mr. Burdin, any preliminary 4 issues that we need to deal with, sir? 5 MR. BURDIN: Not that I'm aware of. 6 MR. BAUMGARDNER: Okay, great. Then we will begin 7 our case in chief. I will turn it over to the Applicant's 8 counsel, Ms. Girard, for an opening statement if she so 9 desires. And then we will get into our first witness. 10 One nice thing about the timing of today. I 11 intend to break for lunch at 12:00 noon and we will do in our 12 lunch from 12:00 until 1:00 and then reconvene at 1:00 and 13 then go probably until 4:30 or so if that works for everyone. 14 We will do the same thing tomorrow and if we need a day, the 15 same thing on a Wednesday. So again, we will go from now 16 until noon and I will break for lunch and then reconvene at 17 1:00. So with that said, I will turn it over to Mr. R to 18 start her opening and then her case in chief. 19 MS. GIRARD: Good morning. Erin Girard again for 20 the record on behalf of the Applicants EYA Development LLC 21 and BL Strathmore LLC. As noted, this application is for 22 4910 and 4920 Strathmore Avenue in North Bethesda. This 23 application was submitted that's a local map amendment was 24 submitted on August 4, 2021, seeking a rezoning to the CR 25 zone. The -- or CRT zone -- CRN zone. Excuse me, sorry.</p>

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<p>17</p> <p>1 After that although is not technically required</p> <p>2 as part of the application process laid out in the zoning</p> <p>3 ordinance there has been a significant amount of outreach</p> <p>4 done as part of this application, which Mr. Lester will get</p> <p>5 into in his testimony. There also has been a significant</p> <p>6 amount of community involvement as noted in section 5 of the</p> <p>7 staff report, the staff report being Exhibit 62.</p> <p>8 The staff report went to great lengths to explain</p> <p>9 the concerns that were raised and how they were addressed.</p> <p>10 And the Applicant has been -- Applicants have been very</p> <p>11 involved in that as well offering their consultants to</p> <p>12 provide additional information to staff and address community</p> <p>13 concerns. Everything that we have heard in our various</p> <p>14 outreach meetings we have taken care to address one way or</p> <p>15 the other. As a result of all these efforts and as a result</p> <p>16 of all -- addressing all the technical requirements, staff</p> <p>17 recommended approval of the application to the planning</p> <p>18 board.</p> <p>19 The planning board recently recommended</p> <p>20 unanimously that the Hearing Examiner and county council</p> <p>21 approved this local map amendment. I just wanted to take a</p> <p>22 minute to note the major issue that has emerged in this case</p> <p>23 is traffic, which is not unusual. There is a feeling amongst</p> <p>24 the community that there can be no way in which this can't</p> <p>25 make things worse, that if you're adding this type of density</p>	<p>19</p> <p>1 conditions would be in the future.</p> <p>2 So the Applicants were asked to do a supplemental</p> <p>3 analysis which they have done, which is in the record. That</p> <p>4 will be reviewed by Ms. Wagner in her testimony. But that</p> <p>5 demonstrated a need for some turning lanes in a signal at the</p> <p>6 new entrance. That is all detailed in that report. That</p> <p>7 still met with some criticism on behalf of the community that</p> <p>8 perhaps of the supplemental analysis which used historical</p> <p>9 counts and it also applied growth factors into the very</p> <p>10 conservative estimate as to things like the enrollment at the</p> <p>11 school. It used in the number 600, which I believe it is in</p> <p>12 the record that they don't intend to go above 400. But very</p> <p>13 conservative analysis to do that, the supplemental analysis.</p> <p>14 But still there was some concern. So the</p> <p>15 Applicants went another step above and beyond and they had</p> <p>16 additional counts done in December and those are in the</p> <p>17 record as well. They will be explained by Ms. Wagner. But</p> <p>18 that showed a consistency with the numbers used in the</p> <p>19 supplemental analysis. So we are very confident that the</p> <p>20 numbers in the analysis that we are using with regard to</p> <p>21 traffic is verifiable, is accurate, and as Ms. Wagner will</p> <p>22 explain, will actually improve the situation.</p> <p>23 So as detailed in the staff report, as detailed in</p> <p>24 our application materials, we feel that this project clearly</p> <p>25 complies with all the findings for people contained in</p>
<p>18</p> <p>1 it will automatically make things worse.</p> <p>2 And while we understand that, as will be explained</p> <p>3 by Ms. Wagner, this actually is going -- this application</p> <p>4 would actually improve many of the exacerbating issues that</p> <p>5 are happening out on those roads today. There is an offset</p> <p>6 intersection between this existing school entrance and</p> <p>7 Stillwater Drive to the north. There is a lack of</p> <p>8 appropriate turning lanes and there is a lack of a signal</p> <p>9 that will get people through.</p> <p>10 So in a very real way this application will be</p> <p>11 improving upon existing conditions that are out there today.</p> <p>12 I also wanted to note that on the issue of traffic the</p> <p>13 Applicants have gone above and beyond what is typically</p> <p>14 required for this type of application. As would usually be</p> <p>15 the case, as part of this submission there was a traffic</p> <p>16 study done in accordance with the LATR guidelines. And that</p> <p>17 actually showed that no mitigation was required as part of</p> <p>18 the application.</p> <p>19 However, understanding that there were going to be</p> <p>20 concerns on behalf of the community and addressing concerns</p> <p>21 addressed by the State Highway administration and the</p> <p>22 Montgomery County Department of Transportation that perhaps</p> <p>23 the memorandum used by the planning board that applies a</p> <p>24 growth factor to current accounts to account for the</p> <p>25 pandemic, that that maybe was out reflecting what the actual</p>	<p>20</p> <p>1 section 59.7.2.1.E of the zoning ordinance. That's all for</p> <p>2 my opening statement. I can proceed with my first witness if</p> <p>3 you're ready.</p> <p>4 MR. BAUMGARDNER: That would be great, thank you.</p> <p>5 MS. GIRARD: So first we are going to call Jack</p> <p>6 Lester.</p> <p>7 MR. LESTER: (Inaudible).</p> <p>8 MR. BAUMGARDNER: Good morning. Okay, that's --</p> <p>9 I'm having feedback now. Let's see if this fixes it. All</p> <p>10 right. Mr. Lester, can you give us your full name, your</p> <p>11 business address, and a good email address for you, please?</p> <p>12 MR. LESTER: Yes. My name is Jack Lester. My</p> <p>13 business address is 4800 Hampton Lane, Suite 300, Bethesda,</p> <p>14 Maryland, 20814. My email is JLester@EYA.com</p> <p>15 Do you swear or affirm under the penalties of</p> <p>16 perjury that the testimony you're about to give is the truth,</p> <p>17 the whole truth?</p> <p>18 MR. LESTER: I do.</p> <p>19 MR. BAUMGARDNER: Thank you, very much. Ms.</p> <p>20 Girard, the witness is yours.</p> <p>21 MS. GIRARD: Thank you. Mr. Lester, what is your</p> <p>22 educational and professional background?</p> <p>23 MR. LESTER: First Erin, I just want to thank</p> <p>24 everyone. I want to thank the Court for making this day</p> <p>25 possible, the staff that's done the work to get in here and</p>

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<p>21</p> <p>1 all of the participants. Yes, I have a bachelors in science 2 and finance and economics and a Masters in business 3 administration. I've been in the homebuilding and real 4 estate development industry for 30 -- more than 30 years now. 5 I guess 31. 25 of those have been in the DC market. And the 6 past 17 I've spent at EYA.</p> <p>7 MS. GIRARD: And can you review your experience 8 with the design and construction of residential projects in 9 Montgomery County particularly?</p> <p>10 MR. LESTER: Yes, both EYA and we personally have 11 had a great deal of experience. EYA is a 30-year-old 12 company. We have developed or are in the process of 13 developing 50 projects. 13 of those projects have been -- 14 are ongoing in Montgomery County. My role over these past 17 15 years of engaged in 10 of those. Most recently I've led our 16 work on the Cabin John Village development that's been built, 17 Grosvenor Heights, which we completed a few years back, and 18 Westwood Village that is in the design and entitlement base. 19 All three are mixed-use, for sale townhome communities within 20 a larger existing neighborhoods.</p> <p>21 The primary focus of our firm is to create best in 22 class and, close-in, walkable neighborhoods that positively 23 impact the folks that live there and the communities in which 24 they are being built in a socially responsible way. And we 25 do this through three primary ways. Number one is through</p>	<p>23</p> <p>1 EYA is 100 person company. We have folks like 2 myself who are at the very start of the project through the 3 site selection and entitlement, but then all the way through. 4 The land development is overseen by EYA people. We serve as 5 our own general contractor. We sell, market, and warrant the 6 homes that we build. So we maintain control of that process 7 and through that we are able to mitigate impacts to the 8 surrounding neighborhood.</p> <p>9 MS. GIRARD: And with that in mind, Mr. Lester, 10 can you explain why you chose this proposed location for the 11 project?</p> <p>12 MR. LESTER: Yes. EYA is very selective in the 13 projects that it pursues. As I mentioned, in our 30 -- now 14 over 30 years, we have built or developed or are in the 15 process of 50 -- develop 50 projects. We select 1 to 2 per 16 year and in that we invest our time and our energy and our 17 creative thinking and resources into each of those projects. 18 Our primary criteria for choosing a site is consistency with 19 our brand promise and the commitment we make to our 20 customers. Our tagline, which is more than a marketing 21 tagline, is life within walking distance. And that is the 22 first criteria for the sites that we select.</p> <p>23 This site clearly has that with accessibility to 24 amenities, schools, transit. And so it checks many of the 25 boxes for us. The other key element that appeals to us is</p>
<p>22</p> <p>1 careful site selection. We choose to build where there is 2 existing infrastructure so that our communities don't 3 contribute to sprawl.</p> <p>4 We focus on areas that offer access to employment 5 centers, amenities, transit, retail, and excellent schools. 6 Next we thoughtfully plan our communities considering 7 integration and connection to the existing neighborhood. 8 When Hansen encourage these connections through thoughtful 9 design that encourages walking and biking and creates 10 opportunities for community gathering. Lastly, we develop 11 unique and exceptional architecture for each community that 12 fits within the larger context of the surrounding 13 neighborhood.</p> <p>14 We have an in-house architect who researches 15 existing community and designs homes that are appropriate 16 within that larger neighborhood context. We typically offer 17 a variety of housing choices to meet the needs of different 18 buyers including incorporating moderately priced dwelling 19 units that blended seamlessly with the market rate homes that 20 we build. An hour 30 years we have built in constrained 21 sites and places within or adjacent to environmentally and 22 historically sensitive areas. We have a sensitivity and 23 demonstrated ability to mitigate the impact of our 24 development and construction activities on our neighbors. We 25 do this because we are fully integrated.</p>	<p>24</p> <p>1 the idea of creating or being a part of a larger 2 intergenerational community. Our homebuilders often include 3 and will likely include here, broad demographics ranging from 4 singles, young families, and empty-nesters. We see this as a 5 unique site to partner with Brandywine and the residents that 6 will reside at their senior living building and the Academy 7 of the Holy Cross and its students. So a very unique 8 opportunity for us to create an intergenerational community.</p> <p>9 (Crosstalk)</p> <p>10 MS. GIRARD: You talked about the project. Mr. 11 Baumgardner, I think we -- you were going to pull up the 12 exhibits that he references. Or do you want us to?</p> <p>13 MR. BAUMGARDNER: Whichever you prefer. I can 14 bring them up or if you have them handy you're welcome to do 15 that as well. Whichever you prefer.</p> <p>16 MS. GIRARD: I don't have it on my screen. So if 17 you wouldn't mind pulling up Exhibit 40 (inaudible).</p> <p>18 MR. BAUMGARDNER: Sure.</p> <p>19 MS. GIRARD: Zone plan. So that as Jack begins to 20 explain the project we all have a point of reference.</p> <p>21 MR. BAUMGARDNER: Got it.</p> <p>22 MS. GIRARD: Thank you.</p> <p>23 MR. BAUMGARDNER: It should be appearing on your 24 screen shortly.</p> <p>25 MS. GIRARD: It is. Do you want the more detailed</p>

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<p style="text-align: right;">25</p> <p>1 plan? The next sheet? Sheet two of this?</p> <p>2 MR. LESTER: Yeah, a little bit more detail would</p> <p>3 be -- yeah.</p> <p>4 MS. GIRARD: There we go. Right there. Yeah.</p> <p>5 MR. LESTER: Super helpful, thank you.</p> <p>6 MS. GIRARD: All right. Continue.</p> <p>7 MR. LESTER: So the entire site is approximately</p> <p>8 15 acres. Roughly half of it is the St. Angela's Hall</p> <p>9 portion and the other half is the Academy of the Holy Cross</p> <p>10 portion, maybe a little bit less than half there. AHC will</p> <p>11 stay in its current location. That's directly to the south</p> <p>12 or at the bottom of the plan. And --</p> <p>13 MR. BAUMGARDNER: Mr. Lester?</p> <p>14 MR. LESTER: Yes.</p> <p>15 MR. BAUMGARDNER: I'm sorry. Just to clarify for</p> <p>16 everyone it was logged in, we are looking at Exhibit 40</p> <p>17 number which is the flooding zone plan. And we are looking</p> <p>18 at page 2 of that plan which details in a grayed out fashion</p> <p>19 where the proposed structures are going to be located. On</p> <p>20 the right of that plan are a number of proposed binding</p> <p>21 elements as well as a number of different -- I'm trying to</p> <p>22 zoom in here, if that's still clear. Still loading.</p> <p>23 MS. GIRARD: The development standards I think</p> <p>24 it's fair to say are there.</p> <p>25 MR. BAUMGARDNER: Yes. So just to make that clear</p>	<p style="text-align: right;">27</p> <p>1 alluded to it a minute ago. But what outreach and be done</p> <p>2 with neighbors and other interested parties regarding your</p> <p>3 proposal for the site?</p> <p>4 MR. LESTER: Yeah, thank you Erin. This is an</p> <p>5 important element for us. We have -- as infill developers,</p> <p>6 and we are going into communities and old town for instance</p> <p>7 better 350 years old or Capital Hill where they are 200 years</p> <p>8 old. And so engagement has been a big part of our work over</p> <p>9 the last 30 years in the projects we've developed. In this</p> <p>10 case we engage with communities early and consistently and</p> <p>11 we've been responsive to their request for information and</p> <p>12 follow-up for meetings.</p> <p>13 Our contact with that's our contract with AHC, the</p> <p>14 Academy and the sisters, became effective on November 30,</p> <p>15 2020. On January 8 of the following year we sent letters to</p> <p>16 110 neighbors and civic groups informing them of the decision</p> <p>17 by AHC and the Academy to sell their property, describing our</p> <p>18 conceptual plans for the site and providing our names and</p> <p>19 emails for follow-up in questions.</p> <p>20 We offered to hold in person and all my meetings</p> <p>21 with surrounding community and neighborhood groups and we met</p> <p>22 with groups who expressed interest. Specifically, we held a</p> <p>23 Zoom call with the mayor and staff from Garrett Park on</p> <p>24 January 19, 2021. We had a Zoom call with Garrett Park</p> <p>25 Estates, Friends of White Flint on February 12 and again on</p>
<p style="text-align: right;">26</p> <p>1 for everyone who is watching or listening in that's what we</p> <p>2 are looking at, Exhibit 40, the flooding zone plan. I'm</p> <p>3 sorry, sir. You can continue.</p> <p>4 MR. LESTER: No, thank you. Thank you for saying</p> <p>5 that. So I was saying, the school as to the bottom or south</p> <p>6 of the site. At the top is Strathmore Avenue. To the west</p> <p>7 is the existing community of Symphony Park. And to the east</p> <p>8 or the right as I'm looking at the plan is the Holy Cross</p> <p>9 parish and for the down the school. We propose for this site</p> <p>10 two uses. They are organized around the shared road. So the</p> <p>11 shared road is right below the ORE and Strathmore.</p> <p>12 And that's a relocated primary access point for</p> <p>13 AHC, the Academy of the Holy Cross. To the right of that is</p> <p>14 the Brandywine, proposed Brandywine Senior living building.</p> <p>15 And to the left you're seeing what is represented as strings</p> <p>16 of townhomes. And right where the cursor is now, nine</p> <p>17 single-family detached homes fronting on Strathmore. And to</p> <p>18 better meet the -- match the frontage and relate to the</p> <p>19 single-family homes across the street.</p> <p>20 In addition to the homes that you are seeing in</p> <p>21 the Brandywine building, we will have certs for internal</p> <p>22 circulation, sidewalks, a natural trail along the western</p> <p>23 portion of the site and several gathering places throughout</p> <p>24 the development.</p> <p>25 MS. GIRARD: Mr. Lester, can you explain -- I</p>	<p style="text-align: right;">28</p> <p>1 October 4.</p> <p>2 We had a Zoom call with representatives of</p> <p>3 Symphony Park HOA on February 26. We had a Zoom call with</p> <p>4 the Holy Cross Church and school and their representatives on</p> <p>5 March 30 and again on November 8. And we've also had several</p> <p>6 town halls with the Academy of Holy Cross parents and staff</p> <p>7 and we've made ourselves available and followed up after</p> <p>8 those meetings if questions were asked of us. At each</p> <p>9 meeting we shared our most current plans, answered questions,</p> <p>10 and followed up.</p> <p>11 For example, at the Garrett Park Estates, Friends</p> <p>12 of White Flint as for the supplemental traffic analysis that</p> <p>13 Erin mentioned we performed, but not required in the LMA</p> <p>14 application. We promptly provided that information to their</p> <p>15 representatives. At the same meeting someone described the</p> <p>16 flooding that occurs on Strathmore during rainstorms. We</p> <p>17 engaged our engineer Vika to perform an analysis of the</p> <p>18 existing condition described to us.</p> <p>19 We shared the results and indicated that</p> <p>20 approximately 1-1/2 acres of the St. Angela property</p> <p>21 contributes to the existing property and confirm that water</p> <p>22 would be captured on our site under our proposed plans. We</p> <p>23 also confirmed that we intended to provide the turn lane on</p> <p>24 the property from Strathmore without reducing the existing</p> <p>25 median.</p>



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<p style="text-align: right;">29</p> <p>1 Lastly, we've been engaged with the Holy Cross  2 church and school and planned with them to build a safe  3 connection along their frontage at least it through the  4 church property and ideally to the school property. We are  5 committed to working with our neighbors wherever we build.  6 We try to understand the impacts of our new communities on  7 existing residents and then work to mitigate them while  8 delivering on many of the benefits of our new community to  9 the neighborhood and to the county.  10 The primary concerns are raised by our neighbors  11 as Erin mentioned have been related to traffic and, to a  12 lesser extent, but equally important, pedestrian safety. To  13 address the issues and to address them-- to understand the  14 issues and address them, we begin by engaging our traffic  15 engineer to perform a traffic study in accord with the  16 Montgomery County Park and planning requirements. The scope  17 of the study is in fact reviewed and approved by county  18 staff.  19 That study is the basis for developing the  20 mitigation plan if needed. The results of that study  21 required no mitigation under the future condition. We then  22 asked our engineer to perform a supplemental analysis based  23 on MCDOT and state highway metrics. The results of that  24 study concluded mitigation was warranted. We will accept the  25 proposed mitigation as a condition of approval. We performed</p>	<p style="text-align: right;">31</p> <p>1 storm water and -- including capturing substantial storm  2 water that now leaves the property. The design of our homes  3 and the types of materials were used to construct will be of  4 high quality and compatible with surrounding homes.  5 MS. GIRARD: And Mr. Lester, in your opinion would  6 the proposed project adversely affect the character of the  7 surrounding neighborhood?  8 MR. LESTER: I do not. I believe this development  9 will contribute to the larger region and the character of the  10 neighborhood by offering diverse housing types for  11 intergenerational living, building housing that provides  12 access to jobs, amenities, retail, and transit that leverages  13 the county's investment in infrastructure and contributes to  14 the affordable housing stock.  15 Not only does the development introduce much-  16 needed housing for seniors in the context of a  17 multigenerational community, it also preserves  18 environmentally sensitive areas to conservation easements,  19 improves and enhances pedestrian access and safety and  20 mitigates existing and future traffic congestion.  21 MS. GIRARD: That's all I have for Mr. Lester.  22 MR. BAUMGARDNER: Thank you, Mr. Lester and Ms.  23 Girard. We will start with Mr. Shaffer. Are there any  24 questions for Mr. Lester?  25 MR. SHAFFER: Just a few, thank you.</p>
<p style="text-align: right;">30</p> <p>1 analysis beyond what was required for this application and  2 have committed to meet the mitigation measures recommended by  3 it.  4 MS. GIRARD: And Mr. Lester, are you familiar with  5 conditions of approval recommended by the planning board in  6 his review of the application? And just to be clear, those  7 are on page 2 of Exhibit 62.  8 MR. LESTER: Yes, I am familiar.  9 MS. GIRARD: And is the Applicant willing to  10 accept these conditions of approval?  11 MR. LESTER: Yes.  12 MS. GIRARD: Mr. Lester, in light of your  13 testimony and based on your familiarity with the plans and  14 expert reports submitted with the application, do you believe  15 the proposed development will be compatible with the existing  16 and approved adjacent development?  17 MS. GIRARD: I do. Our plan proposes compatible  18 uses, residential and senior living at appropriate heights  19 and densities. It contributes to a more walkable and likable  20 community by incorporating sidewalks, crosswalk, shared use  21 trails, and natural trail providing access to the now private  22 property. It will include open space and recreation areas in  23 accord with County standards and preserve approximately 4  24 acres of environmentally sensitive area.  25 It will incorporate best practices for managing</p>	<p style="text-align: right;">32</p> <p>1 MR. BAUMGARDNER: (Inaudible).  2 MR. SHAFFER: Good morning, Mr. Lester.  3 MR. LESTER: Good morning Mr. Shaffer.  4 MR. SHAFFER: So as we understand it, one of the  5 justifications for placing this development in this area was  6 the county's policy of encouraging development (inaudible)  7 development; is that correct?  8 MR. LESTER: I don't know that the county's policy  9 is what drove us or motivated us to pursue this. I think the  10 things that I had mentioned, it's ability -- of this site's  11 location allows us to deliver on that brand promise, which is  12 making use of existing infrastructure, providing homes in  13 areas that have access to jobs, amenities, schools. Those  14 were the primary reasons for as having an interest in going  15 under contract with the sisters and the Academy.  16 MR. SHAFFER: Okay. So you didn't consider  17 transit -- whether this was developed new transit to be  18 important to your choice of the selected site; is that  19 correct?  20 MR. LESTER: You know, it is a factor that I  21 think -- I listed a handful of factors. I would say not  22 every community that we develop meets every single one. It's  23 kind of a combination of things. So access to modes of  24 transit is typically one of those. In this case it does  25 provide that.</p>

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<p style="text-align: right;">33</p> <p>1 MR. SHAFFER: Some extent you are correct. But</p> <p>2 isn't it true that your application recognizes that use of</p> <p>3 Metro will be -- or and public transportation will be minimal</p> <p>4 in this development?</p> <p>5 MR. LESTER: You know, I couldn't speak to it. I</p> <p>6 think Katie can speak to it. My expectation is that folks</p> <p>7 will use Metro given its proximity. I think in our analysis,</p> <p>8 our traffic engineer assumed little use of Metro, but I would</p> <p>9 expect that our residents there will take advantage of it</p> <p>10 just like many of the school families do take advantage of</p> <p>11 the proximity of Metro.</p> <p>12 MR. SHAFFER: Well, the people in the retirement</p> <p>13 community aren't going to be taking advantage of Metro are</p> <p>14 they? In your opinion?</p> <p>15 MS. GIRARD: Objection.</p> <p>16 MR. LESTER: I will let Brenda speak to that.</p> <p>17 MS. GIRARD: Yeah, that's for Brandywine. Mr.</p> <p>18 Lester didn't explain any of the operations of the assisted</p> <p>19 living facility.</p> <p>20 MR. SHAFFER: Okay, fair enough. I will address</p> <p>21 that question to that witness. But basically, isn't this in</p> <p>22 the zone in which the county wanted to encourage transit</p> <p>23 oriented development?</p> <p>24 MR. LESTER: I'm sorry. Say that again.</p> <p>25 MR. SHAFFER: Isn't it true that the area that</p>	<p style="text-align: right;">35</p> <p>1 that's okay.</p> <p>2 MR. SHAFFER: Okay.</p> <p>3 MR. LESTER: And I don't know the answer that now</p> <p>4 or when they are called.</p> <p>5 MR. BAUMGARDNER: When they are called.</p> <p>6 MR. LESTER: Okay.</p> <p>7 MR. SHAFFER: When they are called. Sorry. I</p> <p>8 didn't mean to usurp you.</p> <p>9 MR. BAUMGARDNER: That's okay, Mr. Shaffer. I</p> <p>10 don't mind.</p> <p>11 MR. SHAFFER: I don't think I have any further</p> <p>12 questions at this time of this witness. I will turn it over</p> <p>13 to them.</p> <p>14 MR. BAUMGARDNER: Thank you, sir. Mr. Burdin, any</p> <p>15 questions of Mr. Lester?</p> <p>16 MR. BURDIN: Yeah, just a few. You mentioned the</p> <p>17 walk ability of the project. As far as walk ability off the</p> <p>18 project, to where are you referencing walk ability?</p> <p>19 MR. LESTER: I just meant it in a general sense</p> <p>20 that by adding sidewalks and crosswalks and traffic lights,</p> <p>21 it encourages walking. Our site design we think encourages</p> <p>22 walking. As we've done, I mentioned the 50 times before,</p> <p>23 where we really endeavored to make that public space, those</p> <p>24 public roads attractive. We put the -- on our rear load</p> <p>25 townhomes we put the garages with their garbage cans and so</p>
<p style="text-align: right;">34</p> <p>1 your developing is within the zone in which the county wants</p> <p>2 to encourage transit oriented development?</p> <p>3 MR. LESTER: You know, honestly, I don't know. I</p> <p>4 rely on Erin or land-use counsel to tell me what the specific</p> <p>5 zones are and recommendations by the county.</p> <p>6 MR. SHAFFER: Okay. But despite the assumptions</p> <p>7 of in the traffic report that you submitted you believe there</p> <p>8 will be some use of Metro arising out of this project.</p> <p>9 MR. LESTER: I'm not an expert on it. I'm</p> <p>10 somebody who lives near a Metro myself. And we use it. We</p> <p>11 don't use it exclusively, but we use it. And maybe it's not</p> <p>12 helpful for me to assume that the families living here would</p> <p>13 act like I would. But I'm just -- I guess a reasonable</p> <p>14 person with Metro nearby I imagine some folks would take</p> <p>15 advantage of it.</p> <p>16 MR. SHAFFER: Is there any consideration being</p> <p>17 given to offering shuttle to the Metro for this project?</p> <p>18 MR. LESTER: No. No.</p> <p>19 MR. SHAFFER: Is there any consideration being</p> <p>20 given to improving the accessibility of the 5W bus stop on</p> <p>21 either side of Strathmore around the intersection of</p> <p>22 Stillwater?</p> <p>23 MR. LESTER: I'm going to do for that question, if</p> <p>24 it's all right, to our engineer. I think I know the answer,</p> <p>25 but rather the guess I would rather just defer to them if</p>	<p style="text-align: right;">36</p> <p>1 forth in the back so that again, it makes that walking</p> <p>2 experienced more enjoyable. You know, of course this</p> <p>3 neighborhood has admitted these such as the schools that are</p> <p>4 nearby, music center. So there are, in addition to the trail</p> <p>5 we are proposing, there are opportunities to walk.</p> <p>6 MR. BURDIN: Okay. So other than the music center</p> <p>7 and the schools, you're not aware of any other destinations</p> <p>8 that these residents are likely to walk too?</p> <p>9 MR. LESTER: I mean, not living in the</p> <p>10 neighborhood, I wouldn't hazard a guess.</p> <p>11 MR. BURDIN: Okay. You also mentioned excepting</p> <p>12 mitigation as a condition of approval when you were talking</p> <p>13 about traffic. What specific mitigation are you talking</p> <p>14 about?</p> <p>15 MR. LESTER: Yeah. So I will answer, but maybe</p> <p>16 for a more precise answer, Vika can give that. The</p> <p>17 mitigation is the alignment of Stillwater. Right now it's</p> <p>18 kind of disjointed from the existing driveway. Adding a</p> <p>19 shared drive that will have a right turn out, so a dedicated</p> <p>20 turn to get out of the school, and a left turn in, dedicated</p> <p>21 left turn in, and then signaling that shared driveway onto</p> <p>22 Strathmore.</p> <p>23 MR. BURDIN: Okay. I will let -- other witnesses</p> <p>24 may expand on that. I think you missed a few. You mentioned</p> <p>25 the Holy Cross students using Metro as an indication that</p>

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<p style="text-align: right;">37</p> <p>1 some of the residence also could use Metro. Do you know  2 whether your residence will be able to cut through Holy Cross  3 school and use the pedestrian path that's a lot shorter to  4 Metro?  5 MR. LESTER: No, they would not. They would not  6 be permitted to cross private property.  7 MR. BURDIN: Okay. So your residents would have  8 to walk to Strathmore, turn west, cut through the path at  9 Symphony Park, and go past the music center to get the Metro?  10 MR. LESTER: I think that's a logical path they  11 would take.  12 MR. BURDIN: Okay. That's all I have for now.  13 MR. BAUMGARDNER: Thank you. Mr. Lester, based  14 upon those questions, if you had to, had to guess, how long  15 of a walk with that be for the majority of the residence in  16 this area to get to the Metro station?  17 MR. LESTER: I wouldn't -- I probably shouldn't  18 guess.  19 MR. BAUMGARDNER: (Inaudible).  20 MR. LESTER: I would say it's less than a mile.  21 MR. BAUMGARDNER: Less than a mile. And you had  22 mentioned that you live close to this property, sir?  23 MR. LESTER: No, I live near a Metro.  24 MR. BAUMGARDNER: A separate Metro station?  25 MR. LESTER: Separate Metro.</p>	<p style="text-align: right;">39</p> <p>1 Symphony Park HOA and asked if we could connect from the  2 natural surface trail we are proposing on the western  3 property line across the Stream Valley buffer, because we  4 would need if their permission because an easement does not  5 exist. When that property was developed a few years back,  6 the county didn't require them to put an easement. So a  7 connection would need their approval for us to make it.  8 MS. GIRARD: And just to be clear, when you say an  9 easement, for those who may not know, are there walking paths  10 on the Symphony Park property that connect Metro?  11 MR. LESTER: There is. There is a path system  12 there that runs parallel with our property line just on the  13 other side of the environmentally sensitive area. And we  14 discussed with the county and the county has encouraged us to  15 make a crossing, again, subject to the approval of the  16 Symphony Park Homeowners Association.  17 MS. GIRARD: And is that something that you intend  18 to continue to pursue through further entitlements should  19 this LMA be approved?  20 MR. LESTER: Absolutely. We would love to make  21 that connection. And of course we would share in the cost of  22 maintaining the trail on their side of the property, on their  23 property.  24 MS. GIRARD: And similarly, were this LMA approved  25 and you move on to preliminary plan, is it your understanding</p>
<p style="text-align: right;">38</p> <p>1 MR. BAUMGARDNER: And from your knowledge of this  2 area, working on this application, is in a predominantly car  3 driven area? Is it a mix of walking and biking and other  4 means? If you know.  5 MR. LESTER: I don't know. But my experience is  6 there is going to be a mix. We built a -- I led the efforts  7 on a project in Grosvenor Heights, which is probably, you  8 know, more than a mile. Whenever I visited Grosvenor  9 Heights, because I Metro to the office where I live in -- I  10 live in DC, and Metro to Bethesda, I Metro there. And again,  11 maybe I'm not -- I shouldn't make myself representative of  12 the folks that live there, but Metro is enormously convenient  13 and I've been taking it personally for over 20 years. And my  14 palms sweat when I have the drive to the office. So I can't  15 speak -- you know, I'm not going to be like the 125 families,  16 but I like and use Metro and I seem some the families will  17 use it for some of their trips.  18 MR. BAUMGARDNER: I understand. Mr. Girard, any  19 questions based upon the questions that have been asked so  20 far?  21 MS. GIRARD: Just two quick ones. Mr. Lester,  22 have you had any conversations with the Symphony Park  23 Homeowners Association regarding making a connection that  24 would make the connection to Metro a little bit quicker?  25 MR. LESTER: Yes, we did. We reached out to</p>	<p style="text-align: right;">40</p> <p>1 that sidewalk extensions, bus stops, improvements, bike  2 lanes, all that would be further studied at the time of  3 preliminary plan?  4 MR. LESTER: It is.  5 MS. GIRARD: That's all I have.  6 MR. BAUMGARDNER: Mr. Shaffer or Mr. Burdin, any  7 questions based upon those questions?  8 MR. BURDIN: Yeah, I do.  9 MR. BAUMGARDNER: Mr. Burdin, go ahead.  10 MR. BURDIN: Thank you. This proposed path to the  11 Symphony Park trail to Metro, do you know what it would  12 entail as far as cutting down trees and spanning the Creek  13 that is there?  14 MR. LESTER: I believe, Mr. Burdin, that it -- we  15 would identify with the county the location where it would  16 have the least impact to the environmentally sensitive area.  17 I believe we can do that without removing trees. It would  18 require bridging over the stream.  19 MR. BURDIN: You think you could do it without  20 removing trees? Okay.  21 MR. LESTER: I think so. I mean, what we would  22 do -- what we've done in these instances is we literally walk  23 in with the county's arborist and their team and we go out  24 with our engineer. We identify the place where it's going to  25 have the least impact. So we haven't identified that. We</p>

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<p style="text-align: right;">41</p> <p>1 have not done that specifically. We've walked it. The  2 county has walked it. But we haven't taken the step of  3 identifying where exactly they would approve it.  4 MR. BURDIN: Do you know if any of your  5 consultants would have a -- an opinion about being able to do  6 this without taking down trees? In which case that would  7 (inaudible).  8 MR. LESTER: I don't know. Maybe. They might. I  9 don't -- I don't know.  10 MR. BURDIN: Okay. And as of right now, you have  11 no agreement with Symphony Park, right?  12 MR. LESTER: Correct, no agreement.  13 MR. BURDIN: So at this point it's just  14 speculation whether this will ever come to pass and -- is  15 that correct?  16 MR. LESTER: Yes. We would absolutely like to do  17 in. If they don't want it, we can't tie into their private  18 property.  19 MR. BURDIN: For purposes of this decision before  20 the hearing officer and the county and counsel, this is an  21 uncertain event? And you can't guarantee?  22 MR. LESTER: I can't -- yeah, I can't guarantee  23 that they would be willing to allow us to connect at that  24 location.  25 MR. BURDIN: Thank you. That's all.</p>	<p style="text-align: right;">43</p> <p>1 car garages?  2 MR. LESTER: We haven't designed all of the homes  3 yet. So I can't answer at this stage.  4 MR. RIBEIRO: But is it a plan that you would --  5 that these homes would have garages?  6 MR. LESTER: Yes.  7 MR. RIBEIRO: Okay. And are you planning -- so  8 the plan that you should right now did not have a connection  9 to -- and we've been talking about this, a more direct  10 connection. So you are not planning a more direct connection  11 to the Metro from this development to go through the schools  12 property?  13 MR. LESTER: Correct. Again, we wouldn't -- we  14 can't cross private property just like we can't connect to  15 the Strathmore Symphony Park private property, we can't build  16 a connection through AHC and I can't build a connection  17 through your front yard.  18 MR. RIBEIRO: Right.  19 MR. LESTER: So you've got to be respectful of  20 property rights.  21 MR. RIBEIRO: Correct. Okay. And then there are  22 three entrance road connections into this development as you  23 have planned right now. Did you consider instead of having  24 one or two, with fewer roads induce more use of public  25 transportation into your development?</p>
<p style="text-align: right;">42</p> <p>1 MR. BAUMGARDNER: Thank you. Councilwoman  2 Bennett, you have your virtual hand raised. Did you have a  3 question?  4 MS. BENNETT: I just wanted to ask Mr. Lester a  5 clarifying question. Did I hear correctly that the traffic  6 signal you're proposing would only be a signal across the  7 entrance road and not across the Strathmore Avenue itself?  8 And if this is going to be detailed and later testimony, then  9 we can wait to hear that.  10 MR. LESTER: I'm not sure I understand. The  11 signal we are considering under the supplemental analysis  12 would be at the new -- what we called the shared driveway,  13 but the main access and Strathmore. So it would be a signal  14 at that new intersection.  15 MS. BENNETT: With the signal span across  16 Strathmore Avenue and stop traffic traveling on Strathmore  17 Avenue?  18 MR. LESTER: Yes, it would, yes. It would be, I  19 guess the three-way signal. But if I'm wrong, somebody will  20 correct me.  21 MS. BENNETT: Thank you for clarifying.  22 MR. BAUMGARDNER: It looks like we have one more  23 question from Mr. Ribeiro.  24 MR. RIBEIRO: Thank you, very much. I have maybe  25 just a couple of questions. One, will all the homes have two</p>	<p style="text-align: right;">44</p> <p>1 MR. LESTER: I don't -- I don't know if that -- if  2 it would. I just don't know. I'm not qualified to say.  3 MR. RIBEIRO: Okay. And then one last question.  4 Do you think that the future residents of this development  5 would benefit from not having school traffic going to their  6 neighborhood every weekday if an entrance were built to the  7 school from Tuckerman Lane?  8 MR. LESTER: I couldn't say. I mean, we are in a  9 market business, right. So people select and they make big  10 investments on where they want to live and they understand  11 kind of the environment in which they are moving. Probably  12 like everybody on this call kind of knew what you were doing.  13 So I don't know if folks would see that as a benefit or not.  14 But they will absolutely know that there isn't that  15 connection when they choose to buy a home from EYA or move  16 into the Brandywine building.  17 MR. RIBEIRO: Okay. Thank you, very much.  18 MR. BAUMGARDNER: Ms. Girard, any re-direct?  19 MS. GIRARD: No, I'm good. Thank you.  20 MR. BAUMGARDNER: All right. Thank you very much  21 for your testimony Mr. Lester and for the questions for all.  22 We will move on to our next witness, Ms. Girard.  23 MS. GIRARD: Yes. Next I would like to call  24 Brenda Bacon.  25 MR. BAUMGARDNER: You are on mute, ma'am</p>

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<p style="text-align: right;">45</p> <p>1 MS. BACON: Good morning.</p> <p>2 MR. BAUMGARDNER: Good morning. What is your full</p> <p>3 name, your business address, and a good business email</p> <p>4 address, please?</p> <p>5 MS. BACON: My name is Brenda J. Bacon. My -- at</p> <p>6 Brandywine Living, 525 Fellowship Road, Mount Laurel, New</p> <p>7 Jersey, 08053. And my email address is</p> <p>8 BBacon@BrandyCare.com.</p> <p>9 MR. BAUMGARDNER: Thank you, very much. If you</p> <p>10 can, please raise your right hand.</p> <p>11 Do you swear or affirm under the penalties of</p> <p>12 perjury that the testimony you're about to give is the truth,</p> <p>13 the whole truth?</p> <p>14 MS. BACON: I do.</p> <p>15 MR. BAUMGARDNER: Thank you, very much. Ms.</p> <p>16 Girard, the witness is yours.</p> <p>17 MS. GIRARD: Thank you. Ms. Bacon, what is your</p> <p>18 educational and professional background?</p> <p>19 MS. BACON: Well, I think of a start with saying</p> <p>20 that for the first 12 years I was in the archdiocese of</p> <p>21 Washington schools at our Lady Queen of Peace in Elizabeth</p> <p>22 Seton High School. I think that my undergraduate degree at</p> <p>23 Hampton University in social work. And my MBA from the</p> <p>24 Wharton School, the University of Pennsylvania in healthcare</p> <p>25 management.</p>	<p style="text-align: right;">47</p> <p>1 living, assisted living community.</p> <p>2 And we find that people very much -- first of all,</p> <p>3 our residents love being around children. And so there are</p> <p>4 children in and out the community all the time with them and</p> <p>5 outside with them and engaging in activity. And people,</p> <p>6 usually when they want to take care of their parents when</p> <p>7 their parents need more assistance, then they bring them</p> <p>8 closer to them.</p> <p>9 And so it is -- it really fosters the opportunity</p> <p>10 for empty-nesters, for example, to have their grandchildren</p> <p>11 come over and also to have their moms and dads next door. So</p> <p>12 is a great opportunity. Is almost a perfect situation for</p> <p>13 just the quality of life that it brings to all of the</p> <p>14 generations.</p> <p>15 MS. GIRARD: And can you review your plans for</p> <p>16 this property in particular?</p> <p>17 MS. BACON: This would be -- Erin, do we have a</p> <p>18 picture, a rendering that we could show of the property?</p> <p>19 MS. GIRARD: (Inaudible).</p> <p>20 MS. BACON: A lot of times -- I don't know who has</p> <p>21 the exhibits.</p> <p>22 MS. GIRARD: Maybe it's easiest just to reuse the</p> <p>23 floating zone plan that we had on the screen a minute ago.</p> <p>24 MS. BACON: Well, yeah. The thing that I think is</p> <p>25 important is that sometimes people think that senior living</p>
<p style="text-align: right;">46</p> <p>1 I have spent 30 years in senior living, operating,</p> <p>2 owning assisted living communities. I've also spent time in</p> <p>3 government in the state of New Jersey and the governor's</p> <p>4 office prior to that. And I've owned my own businesses in</p> <p>5 healthcare, many areas of healthcare.</p> <p>6 MS. GIRARD: In what jurisdictions does Brandywine</p> <p>7 operate in?</p> <p>8 MS. BACON: We are in seven states. So</p> <p>9 Connecticut, New York, New Jersey, Pennsylvania, Delaware,</p> <p>10 Maryland, and Virginia.</p> <p>11 MS. GIRARD: And this Brandywine in good standing</p> <p>12 and all the jurisdictions you mentioned?</p> <p>13 MS. BACON: We are. We spent a lot of time on</p> <p>14 that. In fact, in New Jersey we are in advanced standing,</p> <p>15 which means we far exceed any regulations. And New Jersey is</p> <p>16 the only state that has that, that rates people that way.</p> <p>17 But we are the top-rated communities in New Jersey.</p> <p>18 MS. GIRARD: And Ms. Bacon, can you review why you</p> <p>19 chose the proposed location for the construction of a new</p> <p>20 Brandywine community?</p> <p>21 MS. BACON: I want to iterate something that Jack</p> <p>22 said. The opportunity to develop an intergenerational place</p> <p>23 for people to be is very attractive to us, particularly for</p> <p>24 our seniors, for our parents. We've done two communities</p> <p>25 like that before where they were townhouses and then a senior</p>	<p style="text-align: right;">48</p> <p>1 communities or nursing homes are institutional settings, and</p> <p>2 this that's our communities are never institutional looking.</p> <p>3 They are more residential looking because these are indeed</p> <p>4 residences for seniors. And so we would -- there is a</p> <p>5 Boulevard --</p> <p>6 MR. BAUMGARDNER: Ms. Bacon?</p> <p>7 MS. BACON: Yes.</p> <p>8 MR. BAUMGARDNER: I'm sorry to interrupt. This is</p> <p>9 Exhibit 40, the FZP, the floating zone plan for the record.</p> <p>10 Thank you, ma'am. You may continue.</p> <p>11 MS. BACON: Thank you. So you can see where our</p> <p>12 community is located. There is going to be a Boulevard</p> <p>13 coming off Strathmore. And the ground that slept in the</p> <p>14 back. So we're going to have open space and areas for our</p> <p>15 residents to enjoy the outdoors and also for there to be some</p> <p>16 passive and active recreational things out there on the, on</p> <p>17 the property.</p> <p>18 MS. GIRARD: And if I could trouble the Hearing</p> <p>19 Examiner, I apologize, to also pull up 48B. that was it.</p> <p>20 MS. BACON: I saw her for many, yes.</p> <p>21 MS. GIRARD: Yeah.</p> <p>22 MR. BAUMGARDNER: Right here?</p> <p>23 MS. BACON: No.</p> <p>24 MS. GIRARD: No. The picture, the colored</p> <p>25 picture. There we go.</p>

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<p style="text-align: right;">49</p> <p>1 MS. BACON: Okay.</p> <p>2 (Crosstalk)</p> <p>3 MR. BAUMGARDNER: Exhibit 58B, is that correct?</p> <p>4 MS. GIRARD: Yes.</p> <p>5 MR. BAUMGARDNER: Okay. There you go.</p> <p>6 MS. BACON: So you can see the look of our</p> <p>7 communities is very residential. It's not institutional, and</p> <p>8 very upscale and I think very fitting for the site.</p> <p>9 MS. GIRARD: And Ms. Bacon, can you briefly</p> <p>10 explain the operations of the site and what you expect as far</p> <p>11 as number of employees, shifts, that kind of thing?</p> <p>12 MS. BACON: Okay. So the -- there is 24 hour</p> <p>13 staffing, of course, in a community like this. It is that I</p> <p>14 would say that most employees that are there, the height of</p> <p>15 employees would be midday. So say 12:00, 1:00, 2:00 because</p> <p>16 that's when all of our department heads are in, the nursing</p> <p>17 staff is in, we're serving lunch in our restaurant, and a lot</p> <p>18 of activities are going on. So that is the height of</p> <p>19 staffing. Overnight there would be more like a people in the</p> <p>20 building, 8 to 10 people in the building because we are</p> <p>21 not -- the dining room is open. The indoor pool is not open</p> <p>22 and we are not doing a lot of activities that we usually have</p> <p>23 during the day. The -- it is -- you know, a lot of times</p> <p>24 when we are talking with neighbors and talking about our</p> <p>25 communities as we develop them, what appeals I think to</p>	<p style="text-align: right;">51</p> <p>1 purposely tried to design to fit into the neighborhood and,</p> <p>2 you know, feel comfortable with our neighbors. We have good</p> <p>3 relationships with our neighbors and all of our communities</p> <p>4 and we work hard at that.</p> <p>5 MS. GIRARD: And is there anything else you would</p> <p>6 like the Hearing Examiner to consider?</p> <p>7 MS. BACON: No, I'm happy to answer any questions</p> <p>8 that anyone may have.</p> <p>9 MS. GIRARD: That's all I have for Ms. Bacon.</p> <p>10 MR. BAUMGARDNER: Thank you, Mr. -- Ms. Bacon.</p> <p>11 Mr. Shaffer, you have any questions of Ms. Bacon at this</p> <p>12 time?</p> <p>13 MR. SHAFFER: Just a few. Good morning, Ms.</p> <p>14 Bacon.</p> <p>15 MS. BACON: Good morning Mr. Shaffer.</p> <p>16 MR. SHAFFER: The approximate age, according to</p> <p>17 your materials, I recall the residents will be around 83 to</p> <p>18 85 years old; is that correct?</p> <p>19 MS. BACON: That's correct.</p> <p>20 MR. SHAFFER: Will most of them be ambulatory?</p> <p>21 MS. BACON: Mostly, yes. Our residents are</p> <p>22 ambulatory. Some may use assistive devices, a walker or a</p> <p>23 self-operating wheelchair. They do not, by definition, need</p> <p>24 24 hour nursing, even though we have nurses on site 24 hours.</p> <p>25 It is as much a social community as it is healthcare support.</p>
<p style="text-align: right;">50</p> <p>1 people partially is that it does allow their parents to live</p> <p>2 close by. It's no burden on the school system. Our</p> <p>3 residents rarely drive. Some of them keep their car, but we</p> <p>4 have transportation that we provide in our cars and a bus</p> <p>5 that will take them on activities or anything that we want to</p> <p>6 do. So there is very little traffic or -- and no school</p> <p>7 impact.</p> <p>8 MS. GIRARD: Great. And Ms. Bacon, are you</p> <p>9 familiar with the conditions of approval recommended by the</p> <p>10 planning board in this review of the application? Again, for</p> <p>11 your reference that would be on page 2 of Exhibit 62.</p> <p>12 MS. BACON: I am.</p> <p>13 MS. GIRARD: And is the Applicant willing to</p> <p>14 accept as conditions of approval?</p> <p>15 MS. BACON: Yes, we are.</p> <p>16 MS. GIRARD: And in light of your testimony and</p> <p>17 based on your familiarity with the plans and expert reports</p> <p>18 submitted with the application, do you believe the proposed</p> <p>19 development will be compatible with existing and approved</p> <p>20 adjacent development?</p> <p>21 MS. BACON: I do.</p> <p>22 MS. GIRARD: And in your opinion, will the</p> <p>23 proposed development adversely affect the character of the</p> <p>24 surrounding neighborhood?</p> <p>25 MS. BACON: No, I don't think it will at all. We</p>	<p style="text-align: right;">52</p> <p>1 So once someone needs more care than we can provide onsite</p> <p>2 they would transition to a rehab center or to skilled</p> <p>3 nursing.</p> <p>4 MR. SHAFFER: Understood. So you talked about</p> <p>5 sort of transportation that you would be providing. A bus or</p> <p>6 something. Can you describe the transportation in more</p> <p>7 detail?</p> <p>8 MS. BACON: Yes, we have a 16 passenger bus that</p> <p>9 we use. If people are -- if our residents are going out to a</p> <p>10 play or the Kennedy Center, or in this case, or just on a</p> <p>11 trip during the day, we transport them. We have a</p> <p>12 chauffeured limo that we use for residents when they -- we</p> <p>13 want to take them to the doctor or they're going someplace</p> <p>14 individually or something like that is going on. So we have</p> <p>15 two modes of transportation and regular use in our</p> <p>16 communities.</p> <p>17 MR. SHAFFER: Okay. Have you any estimate of the</p> <p>18 number of persons that will be occupying the facility on a</p> <p>19 regular basis when fully developed?</p> <p>20 MS. BACON: When fully developed I would estimate</p> <p>21 130 to 140.</p> <p>22 MR. SHAFFER: Okay. And based upon your</p> <p>23 experience and knowledge of the industry, of a group like</p> <p>24 that approximately how many would be wanting to go in or out</p> <p>25 of the development every day whether to go shopping, or</p>

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<p style="text-align: right;">53</p> <p>1 transportation or wherever they would be going? Are they 2 very mobile, in other words? 3 MS. BACON: Yes, our residents are usually very 4 mobile. They enjoy being around people. They enjoy going 5 out. We don't do the kind of activities that some people do. 6 We do what we call escapades for life. So we like to have 7 all kinds of choices for people to engage. And certainly 8 being near so many -- so much culture, so much to do in the 9 Washington DC area, we were probably have our residents out a 10 lot. But everybody doesn't want to do everything. So there 11 is also a lot going on in the building. 12 In our community we have our own movie theater. 13 So there are movies that we show there. Again, we have two 14 or three dining venues. We have an indoor pool. So there is 15 a lot that they can do right within the community, but they 16 do tend to very much want to go out, as we all do. 17 MR. SHAFFER: So have you made any estimate about 18 the number of Metro access trips that would be generated 19 every day (inaudible)? 20 MS. BACON: The Metro trips, did you say? 21 MR. SHAFFER: Metro access, the peri transit 22 service provided by Metro for people with disabilities. 23 MS. BACON: Oh, yeah. I'm sorry. Very little. 24 We would not -- we would do the transport ourselves. We 25 would not be bringing in transport from others.</p>	<p style="text-align: right;">55</p> <p>1 MR. BURDIN: Yes, thank you. What are the shift 2 hours for your employees? 3 MS. BACON: Well, they can be -- it depends on if 4 they are full-time or part-time. And they work obviously 5 different shifts depending on what they're doing. So if I 6 were to look at care managers, they can -- and the nurses 7 that would be on site, the three or four nurses at any given 8 time, they could work 7:00 to 3:00 or they could work 6:00 to 9 2:00, 6:00 a.m. to 2:00 p.m. or 7:00 a.m. to 3:00 p.m. 10 We certainly have -- in terms of dining staff, we 11 are going to be more heavily staffed with dining in the 12 middle of the day and for dinner. So that might -- somebody 13 may be coming in from 4:00 to 8:00 if they are a part-time 14 employee in dining. The rest of the staff, the management 15 staff is probably there from 9:00 to whatever, 9:00 a.m. to 16 5:00, or whatever is going on. So it differs by what they 17 are doing for our residents, what time they would be there. 18 MR. BURDIN: And you mentioned the overnight staff 19 was approximately 8 to 10 and that the midday was the most 20 heavily staffed time. How many employees would be there at 21 midday? 22 MS. BACON: I would say between 35 and 40. And 23 that would be your -- at full capacity. And that would be 24 your -- you know, certainly your care support staff, what we 25 call care managers, your dining staff, your recreational</p>
<p style="text-align: right;">54</p> <p>1 MR. SHAFFER: So you would have enough buses 2 and/or chauffeured limousines to -- 3 MS. BACON: Yeah. 4 MR. SHAFFER: Meet the needs of that size to 5 community? 6 MS. BACON: Absolutely. Absolutely. 7 MR. SHAFFER: Okay. I thought when I asked you 8 previously that question that you said a chauffeured limo and 9 a bus. Does that mean more than one? 10 MS. BACON: One -- there is a 16 passenger bus. 11 So the trip so usually for 16 residents at a time. We have 12 several trips. So there is not a situation where you would 13 be taking 130 people out at one time. They get -- you know, 14 they can decide whether they want to go to this place with 15 that place. And maybe we run the bus twice to -- if there is 16 more than 16 that want to go. Or we would bring in from one 17 of our other communities, either Potomac or Alexandria if we 18 need supplemental assistance. But we would be self- 19 sufficient on that, not depending on County or state 20 resources. 21 MR. SHAFFER: Okay, thank you. 22 MS. BACON: Thank you. 23 MR. SHAFFER: I have no further questions. 24 MR. BAUMGARDNER: Thank you, Mr. Shaffer. Mr. 25 Burdin, any questions for Ms. Bacon?</p>	<p style="text-align: right;">56</p> <p>1 staff, your housekeepers. They would be there. You know, if 2 you pick the time in the day when you receive most of our 3 team members, it would probably be around noon. 4 MR. BURDIN: Okay. And what are your visitor 5 hours? 6 MS. BACON: Families can visit anytime. 7 MR. BURDIN: Anytime? 8 MS. BACON: Yeah. You know, we lock the door in 9 most of our communities at 9:00 at night just for security. 10 And we've got somebody at the front desk. But if a family 11 wanted to say, I want to stop by and see mom on my way home 12 or I want to come over and bring mom something, then we 13 accommodate that. 14 MR. BURDIN: Do you know how many parking spots 15 you have for visitors and residents? 16 MS. BACON: I'm not sure. Perhaps one of our 17 engineers or somebody could answer that for us. But I would 18 tell you that in a community like ours, there are very few, 19 say 10 residents, 10 to 15 residents would have their own 20 cars. And that's been our experience in every new community 21 that we've opened up. Part of the reason that people choose 22 our community is because they don't have to worry about 23 driving anymore. So I think that's an advantage to being 24 there. I don't (inaudible) parking. Most of it is 25 underground. I just don't know the numbers.</p>

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<p>57</p> <p>1 MR. BURDIN: Okay. And are you aware of any</p> <p>2 projections of the use of public transportation? By that I</p> <p>3 mean the Metro station, the bus line, or the Garrett Park</p> <p>4 Marta station by your employees?</p> <p>5 MS. BACON: I am not by our employees. I would</p> <p>6 say our residents, that would be close to zero. But by our</p> <p>7 team members, I would expect that they would use the Metro.</p> <p>8 Most do use public transportation when coming to our</p> <p>9 communities and working in our communities.</p> <p>10 MR. BURDIN: And are you aware of how long it</p> <p>11 takes to walk from the proposed site of your building to the</p> <p>12 Grosvenor Metro station?</p> <p>13 MS. BACON: I'm not.</p> <p>14 MR. BURDIN: Okay. Are you aware how long it</p> <p>15 takes to walk from your site to the Garrett Park Marta</p> <p>16 station?</p> <p>17 MS. BACON: No, I have not measured that. I mean,</p> <p>18 I know the area. We've driven it many times, but I've never</p> <p>19 walked it specifically. So I can't tell you the distance.</p> <p>20 MR. BURDIN: Okay. Did the Applicant's traffic</p> <p>21 consultant ever contact you for information about your --</p> <p>22 contact your company about transit use --</p> <p>23 (Crosstalk)</p> <p>24 MR. BURDIN: Residents or visitors?</p> <p>25 MS. BACON: Yes, we've spent a lot of time as we</p>	<p>59</p> <p>1 that, or Josh.</p> <p>2 MS. GIRARD: So -- but that would be an</p> <p>3 inappropriate question to ask the traffic consultant.</p> <p>4 MR. BURDIN: I'm asking her, does she know. If</p> <p>5 she doesn't know, she can say so.</p> <p>6 MS. BACON: I do not know what exhibit it is or</p> <p>7 where it's included in the traffic study. I do know that we</p> <p>8 talked extensively with our entire team about this.</p> <p>9 MR. BURDIN: Okay. And last question.</p> <p>10 Essentially the same question about the number of employees.</p> <p>11 Did the traffic consultant ask you, your company, for</p> <p>12 information about the shifts, the employee shifts, or the</p> <p>13 number of employees at different times of the day?</p> <p>14 MS. BACON: We -- yes, we have spoken quite a bit</p> <p>15 about that in terms of -- and I -- with our team about that</p> <p>16 in terms of shift time and the maximum time that we would</p> <p>17 have most employees there. So we provided that information.</p> <p>18 I did not personally talk to the traffic consultant. But</p> <p>19 members of my team did and certainly we've talked as a</p> <p>20 project team about that.</p> <p>21 MR. BURDIN: Are you saying that you, your</p> <p>22 company, did provide information about shifts and the number</p> <p>23 of employees to the traffic consultants?</p> <p>24 MS. BACON: We provided the information. I did</p> <p>25 not talk specifically to the traffic consultants, but yes, we</p>
<p>58</p> <p>1 were looking at that's project estimating. We knew that</p> <p>2 traffic is a concern of the community. And it would be a</p> <p>3 concern of ours as well. So we did spend a lot of time</p> <p>4 talking about that.</p> <p>5 MR. BURDIN: But my question specifically is</p> <p>6 whether the traffic consultant asked you for information</p> <p>7 about the use of transit by your employees, residents, or</p> <p>8 visitors.</p> <p>9 MS. BACON: We've talked to all of our -- yeah,</p> <p>10 the consultants about that. Are you asking me about a</p> <p>11 specific reference?</p> <p>12 MR. BURDIN: I'm asking if they requested from you</p> <p>13 any data you had about transit use by employees, residents,</p> <p>14 or visitors?</p> <p>15 MS. BACON: Yes.</p> <p>16 MR. BURDIN: And what did you provide them?</p> <p>17 MS. BACON: I would have to look at the</p> <p>18 information to tell you. Much of what I've told you here is</p> <p>19 that our residents do not use public transportation. We</p> <p>20 provide transportation. Our employees do use public</p> <p>21 transportation mostly, or they carpool. And so probably</p> <p>22 minimal use of -- minimal impact on traffic from us.</p> <p>23 MR. BURDIN: Okay. If that information you</p> <p>24 provided on the record anywhere?</p> <p>25 MS. BACON: Erin I think would have to answer</p>	<p>60</p> <p>1 provided the information.</p> <p>2 MR. BURDIN: Okay. And do you know if the</p> <p>3 information is in the record?</p> <p>4 MS. BACON: I don't know if it's in the record.</p> <p>5 MR. BURDIN: All right. Thank you. That's all.</p> <p>6 MR. BAUMGARDNER: I see a virtual and raised by a</p> <p>7 Cynthia Weitz. Did you have a question, ma'am?</p> <p>8 MS. WEITZ: I do. Can you hear me?</p> <p>9 MS. BACON: Yes.</p> <p>10 MS. WEITZ: Okay. Good morning. I'm trying to</p> <p>11 turn mine --</p> <p>12 MS. BACON: I see you.</p> <p>13 MS. WEITZ: Okay. Hi, how are you?</p> <p>14 MS. BACON: Fine, how are you?</p> <p>15 MS. WEITZ: I'm fine. I have a lot of personal</p> <p>16 experience with senior living. My mother lived very happily</p> <p>17 until she died suddenly at the age of 96 in a nearby senior</p> <p>18 independent living facility. So I feel like I have a deep</p> <p>19 knowledge of day-to-day, what occurs at such a facility. And</p> <p>20 I am wondering, first of all, if you have spoken, or your</p> <p>21 company has spoken to emergency services in the area. My</p> <p>22 experience was that my mother had weekly doctor's</p> <p>23 appointments and I was often in a queue with other family</p> <p>24 members.</p> <p>25 Usually there were three or four of us outside</p>



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<p style="text-align: right;">61</p> <p>1 every morning when there was an appointment where we were  2 taking our -- and it was usually mothers, sorry men -- two  3 doctors appointments. And usually each time I either picked  4 her up or dropped her off. There was an ambulance there and  5 my mother used to laugh that there was an evidence every  6 single day at least once outside the building.  7 And I'm concerned that there are many new senior  8 living facilities coming up in Kensington. And I'm concerned  9 about response times now. I'm also concerned because where I  10 am living, Strathmore Place, we are a naturally  11 multigenerational community and at least half of us are  12 seniors. And as homes are being bought and sold, it's almost  13 completely split between seniors and younger families. So I  14 have a concern also that when my husband or I need an  15 ambulance that they are not going to be able to respond to  16 us. So could you discuss that?  17 MS. BACON: Well, I can discuss --  18 MR. BAUMGARDNER: Ms. Bacon, before you -- before  19 you answer, real quick. So this is the opportunity to ask  20 Ms. Bacon questions about her testimony. If you have  21 testimony yourself, Ms. Weitz, you can certainly testify  22 later on in the hearing. Or Mr. Shaffer can call you as a  23 witness. You're certainly welcome to ask Ms. Bacon a  24 question about what she has testified to. I just don't want  25 to get on the road</p>	<p style="text-align: right;">63</p> <p>1 independent living where they really don't have the staff  2 there that could evaluate a situation.  3 MS. WEITZ: Okay. Going back to my first  4 question, is that something that you can make a commitment to  5 the nearby community that you would be offering that for your  6 staff? Because I have other questions later for the traffic  7 person. But I think that really I know personally the walk  8 would be difficult from where you are located in and it is  9 partially going to be uphill. Is that --  10 MS. BACON: I have no -- I have no hesitancy  11 making that commitment that at shift change we will provide  12 transportation from the train station, the Metro.  13 MS. WEITZ: Thank you.  14 MR. BAUMGARDNER: Thank you, ma'am. Ms. Girard,  15 any questions based upon the questions that have been asked  16 and thus far?  17 MS. GIRARD: No, nothing further.  18 MR. BAUMGARDNER: Okay. I had a quick and that's  19 a few quick follow-up questions, Ms. Bacon. This buzz that  20 has been spoke about, the 16 passenger van or bus, or  21 whatever it might be. Is that on a regular schedule was Mark  22 or is that only an as needed or  23 MS. BACON: Is there at the community all the  24 time. So is the driver. So we set the schedule for it, what  25 it's doing</p>
<p style="text-align: right;">62</p> <p>1 MS. WEITZ: -- I appreciate that. I understand  2 that. So I do have a question. I have been reading about  3 difficulty with senior living maintaining employees and staff  4 retention being an issue. You have a 16 passenger bus. Are  5 you planning to offer your employees, as an incentive, to use  6 that bus for transportation to and from Metro during shift  7 changes?  8 MS. BACON: I want to answer both of your  9 questions. I will answer the second one is. Absolutely we  10 can transport our residents, our employees during shift  11 change to the Metro station. We do that in other communities  12 if the nearby bus or train is not close. And so we can  13 definitely offer that and are happy to be in your mom living  14 in independent living is a slightly different situation than  15 in assisted living.  16 One of the things that we have is we have a nurse  17 on site 24 hours a day, 24/7 we've got nurses there. So  18 often what happens is when you call in a balance and is a  19 911, you may not, in your own home or in an independent  20 living, have someone there that can evaluate the situation  21 and understand whether it needs to be a 911 call or whether  22 the nurse can call the doctor, their personal position, and  23 they can figure out what's going on. So we rarely have 911  24 calls in our communities. And that's just because of the  25 kind of model that we operate in our communities rather than</p>	<p style="text-align: right;">64</p> <p>1 MR. BAUMGARDNER: So there's not like an a.m. run  2 to the grocery store and a p.m. run to the grocery store  3 every day? It's special trips?  4 MS. BACON: Uh-huh.  5 MR. BAUMGARDNER: That's all I had. Ms. Girard,  6 any questions based upon mine?  7 MS. GIRARD: No.  8 MR. BAUMGARDNER: All right. We think Ms. Bacon  9 for her time in her testimony.  10 MS. BACON: Thank you, very much.  11 MR. BAUMGARDNER: I see --  12 MS. BENNETT: May I ask one follow-up question to  13 your question, Mr. Baumgardner?  14 MR. BAUMGARDNER: Yes, Councilwoman. Go ahead.  15 MS. BENNETT: Thank you. Ma'am, the bus, will it  16 be during the day parked in front of the facility in the  17 circular? Or will it be part in the driveway this is behind  18 the care facility?  19 MS. BACON: It will be probably parked behind or  20 underneath in the underground parking. It's a beautiful bus,  21 by the way. You will like it. It's a very nice buzz. But  22 it will be part in our -- you know, it would not be normally  23 be part like there in front when we are doing the turnaround.  24 MS. BENNETT: Okay. And is the underground  25 facility entrance on the front side or in the back at service</p>

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<p>65</p> <p>1 insurance?</p> <p>2 MS. BACON: In the back. In the back.</p> <p>3 MS. BENNETT: Okay. So is it fair to say that in</p> <p>4 order for the -- that bus would be going -- once it dropped</p> <p>5 off or picked up passengers it would go back out onto</p> <p>6 Strathmore to get to that service insurance to park either in</p> <p>7 that parking lot or underground?</p> <p>8 MS. BACON: I don't believe it would have to, but</p> <p>9 I would have to depend on -- when they talk about traffic and</p> <p>10 the flow. I don't believe it has to. I think it can turn</p> <p>11 around and go right under.</p> <p>12 MS. BENNETT: Yeah, I don't see -- okay. Well, I</p> <p>13 don't see a direct interest of the service parking from</p> <p>14 the -- that road -- that roadway from the front.</p> <p>15 MS. BACON: I believe it would have to enter and</p> <p>16 maybe we can pull up the traffic --</p> <p>17 MS. BENNETT: The circulation plan, perhaps?</p> <p>18 MS. BACON: Yes.</p> <p>19 MS. BENNETT: Which is Exhibit 37, I think.</p> <p>20 MR. BAUMGARDNER: Would that be a better question</p> <p>21 for the traffic engineer? Or for Ms. Bacon?</p> <p>22 MS. BENNETT: That's fine. I just want to make</p> <p>23 sure it's understood how that bus would be moving around</p> <p>24 throughout the day at some point.</p> <p>25 MS. BACON: Thank you. I think it works better</p>	<p>67</p> <p>1 your email address for the record, please.</p> <p>2 MR. AMATEAU: Sure, good morning. My name is</p> <p>3 Jeffrey Amateau. I work for Vika Maryland. Office located</p> <p>4 at 20251 Century Boulevard, Suite 200 in Germantown,</p> <p>5 Maryland. ZIP is 20874. My email is Amateau@Vika.com.</p> <p>6 MR. BAUMGARDNER: Thank you, sir. And if you</p> <p>7 could, raise your right hand.</p> <p>8 Do you swear or affirm under the penalties of</p> <p>9 perjury that the testimony you're about to give is the truth,</p> <p>10 the whole truth?</p> <p>11 MR. AMATEAU: I do.</p> <p>12 MR. BAUMGARDNER: Thank you, very much. There</p> <p>13 seems to be some kind of rattle in the background. I don't</p> <p>14 know if that's from anyone in particular. It might be a</p> <p>15 computer issue or a device issue.</p> <p>16 MR. AMATEAU: I've been told that my ventilation</p> <p>17 system was always -- makes a noise. So --</p> <p>18 MR. BAUMGARDNER: Got it. It is what it is.</p> <p>19 MR. AMATEAU: (Inaudible).</p> <p>20 MR. BAUMGARDNER: As long as you know what it is.</p> <p>21 And we are certainly not going to make it or not the heat on</p> <p>22 a day like today. We will turn the witness over to Ms.</p> <p>23 Girard.</p> <p>24 MS. GIRARD: Mr. Amateau, what is your occupation?</p> <p>25 MR. AMATEAU: I'm a civil engineer.</p>
<p>66</p> <p>1 for the --</p> <p>2 (Crosstalk)</p> <p>3 MR. BAUMGARDNER: Question as well. So we will</p> <p>4 make sure that we answer that when the traffic engineer</p> <p>5 testifies.</p> <p>6 MS. BENNETT: Thank you, I appreciate it.</p> <p>7 MR. BAUMGARDNER: Thank you. All right. Thank</p> <p>8 you, Ms. Bacon. We're going to turn it back over to Ms.</p> <p>9 Girard for your next witness. Before you do that, let's take</p> <p>10 a five-minute break if that's okay with everyone. It's 11:08</p> <p>11 a.m. We will reconvene it 11:15 a.m. We will be right back.</p> <p>12 Thank you all, very much.</p> <p>13 (Off the record at 11:09 a.m., resuming at</p> <p>14 11:15 a.m.)</p> <p>15 MR. BAUMGARDNER: We're on the record. This is</p> <p>16 case LMA 143 for the property located at 4910-4920 Strathmore</p> <p>17 Avenue. The data center with 31st. It is -- sorry -- 11:15</p> <p>18 a.m. We had finished the direct examination and cross-</p> <p>19 examination of Ms. Bacon. We are turning it back over to Ms.</p> <p>20 Girard to call her next witness.</p> <p>21 MS. GIRARD: Thank you. Next I would like to call</p> <p>22 Jeff Amateau who hopefully is going to appear on the screen.</p> <p>23 There we go.</p> <p>24 MR. BAUMGARDNER: Good morning, sir. If you</p> <p>25 could, give us your full name, your business address, and</p>	<p>68</p> <p>1 MS. GIRARD: How long have you been engaged in</p> <p>2 this occupation?</p> <p>3 MR. AMATEAU: I've been working this field since</p> <p>4 1988.</p> <p>5 MS. GIRARD: Can you review for us your</p> <p>6 professional and educational background?</p> <p>7 MR. AMATEAU: Yes, I'm a 1988 graduate of the</p> <p>8 University of Maryland, College Park, with my bachelor of</p> <p>9 science in civil engineering. I'm a licensed professional in</p> <p>10 the state of Maryland, Commonwealth of Virginia, and the</p> <p>11 District of Columbia.</p> <p>12 MS. GIRARD: And can you review your work</p> <p>13 experience in the field of civil engineering?</p> <p>14 MR. AMATEAU: Yep. After graduating from the</p> <p>15 University of Maryland I went to work for Vika as a design</p> <p>16 engineer. I worked for Vika from 1988 to 1992. I -- in 1992</p> <p>17 I left Vika for a new position as a project engineer at</p> <p>18 Frederick Ward and Associates located in Bel Air, Maryland.</p> <p>19 And then in 1994 I left Frederick Ward to go back to Vika for</p> <p>20 a project manager's position. I've been at Vika since 1994</p> <p>21 and am currently the director of engineering in the Maryland</p> <p>22 office.</p> <p>23 MS. GIRARD: And have you ever qualified as an</p> <p>24 expert in civil engineering before?</p> <p>25 MR. AMATEAU: Yes. 2015 I testified for a change</p>

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<p style="text-align: right;">69</p> <p>1 in zoning case for the (inaudible) Habitat project in  2 Montgomery county. And before that I testified for a special  3 exception for the Potomac Valley nursing home in the city of  4 Rockville.  5 MS. GIRARD: I would like to note that Mr.  6 Amateau's resume is Exhibit 49A in the record. And I would  7 like to move his admission as an expert in civil engineering.  8 MR. BAUMGARDNER: Mr. Shaffer or Mr. Burdin, any  9 questions or further voir dire of this witness as an expert  10 as a promulgated expert in the field of civil engineering?  11 MR. SHAFFER: No, none for me. This is Dave  12 Shaffer.  13 MR. BURDIN: No, none for me. Thank you.  14 MR. BAUMGARDNER: Hearing no objection or further  15 voir dire, I've reviewed the resume and the testimony of Mr.  16 Amateau. I know that he has appeared before OZAH as an  17 expert in other matters. He is hereby admitted for the  18 purposes of this hearing as an expert in the field of civil  19 engineering.  20 MS. GIRARD: Thank you. Mr. Amateau, are you  21 familiar with the property that is the subject of a local map  22 amendment application, the surrounding area and the  23 application itself, LMA143?  24 MR. AMATEAU: Yes. My team has been working on  25 the project since the summer of 2020. And during that time</p>	<p style="text-align: right;">71</p> <p>1 MS. GIRARD: Can you describe for us the existing  2 public facilities serving the property?  3 MR. AMATEAU: There is an existing large diameter  4 public water main, 12 inch in size on Strathmore Avenue  5 service road. There is an existing large diameter public  6 sewer main along the west property boundary. There are  7 existing private storm drains which outfall on-site. There  8 is an existing gas main on Strathmore Avenue. Communication,  9 electric appear to be on utility poles on Strathmore Avenue.  10 And finally the existing site does not have any current storm  11 water management.  12 MS. GIRARD: Can you describe for us the  13 conceptual proposed public facilities including storm water  14 management?  15 MR. AMATEAU: Well, as I stated before, we have  16 prepared utility and stormwater plans to support the floating  17 zone plan. These plans will be refined with site-specific  18 calculations during the further entitlement permit processes,  19 which would include a (inaudible) hydraulic planning and  20 analysis. We would have to prepare a concept storm water  21 plan, a site development storm water plan, and the other  22 utility plans to support (inaudible) plan and site plan.  23 MS. GIRARD: And are you aware -- Mr. Lester  24 actually referenced it, that the community had raised  25 concerns about existing storm water flowing down Strathmore</p>
<p style="text-align: right;">70</p> <p>1 we have prepared civil engineering concept plans to support  2 the application.  3 MS. GIRARD: And have you analyzed the suitability  4 of the subject property for the proposed single-family and  5 residential care facility uses from a civil engineering  6 standpoint?  7 MR. AMATEAU: Yes, we've analyzed the storm water  8 management, water, sewer, storm drain, and grading. Our  9 concepts considered the constraints of the property and we  10 were able to provide the required development standards such  11 as redundant water collection, proper easement widths,  12 adequate or subtle clearances between utilities, proper sight  13 distances at the entrances of Strathmore Avenue, and  14 providing 100 percent of the storm water management volume  15 based on the current layout.  16 MS. GIRARD: Can you describe for us the existing  17 conditions environmental constraints of the property? And  18 how it relates to adjacent properties?  19 MR. AMATEAU: Yes. Well, the existing land use is  20 institutional, consisting of building, private streets,  21 parking, athletic fields. Environmentally there are two  22 streams on the property. One is along the entire West  23 boundary flowing from Strathmore Avenue to Cloister Drive.  24 In a smaller stream flowing east to west. Confluence of the  25 two streams is about 800 feet north of Cloister Drive.</p>	<p style="text-align: right;">72</p> <p>1 Avenue and pooling at the intersection of Stillwater?  2 MR. AMATEAU: Yes, I have walked the Stillwater  3 Avenue intersection with the Strathmore Avenue service Road.  4 In that area has a flat grade as it flows west to the  5 drainage as well and then south in the stream.  6 MS. GIRARD: And --  7 MR. AMATEAU: The majority that I was going to say  8 the majority of that drainage area is from the development  9 north of Strathmore Avenue at Stillwater. And as Jack  10 mentioned, there is a small area about 1.8 acres from my  11 calculations from the project site that the existing  12 condition that flows towards that intersection. However, on  13 our current green plan and storm water plan we are  14 significantly reducing that drainage by picking up that on-  15 site water and conveying it to on-site stormwater which would  16 outfall south of the Strathmore -- Strathmore Avenue.  17 MS. GIRARD: Thank you.  18 MR. BAUMGARDNER: Would a particular exhibit be  19 helpful on Mr. Amateau and explaining the outfall and the  20 flow of storm water through the property?  21 MR. AMATEAU: Exhibit 46? Stormwater exhibit?  22 MR. BAUMGARDNER: Do you want me to pull that up?  23 It should be on your screen shortly.  24 MS. GIRARD: It's there.  25 MR. AMATEAU: It is on my screen, but pretty</p>

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<p style="text-align: right;">73</p> <p>1 small. So if we can, zoom in close to the Brandywine 2 facility up along Strathmore Avenue. It's very difficult to 3 see at this scale, but there is storm drain and if I was able 4 to use my cursor I could probably pick it up for you. 5 Because there is storm drain -- 6 MR. BAUMGARDNER: (Inaudible) exhibit which is 7 Exhibit 46, there are areas of marked in green. What are 8 those areas? 9 MR. AMATEAU: Those areas are storm water 10 management areas, a mixture of roadside bios and bio filters. 11 But what's conveying the water away from that intersection is 12 the storm drain system. And it's gray. Maybe we could pull 13 up the utility plan, which is Exhibit 35. Maybe that -- it's 14 not on my exhibit. 15 MR. BAUMGARDNER: I apologize, Ms. Girard. I'm a 16 visual person, so I like to see -- 17 MS. GIRARD: I totally understand that. 18 MR. BAUMGARDNER: The photos give me a really good 19 idea of what we are looking at here. Hopefully this loads. 20 All right. This is that's what's showing on my screen is 21 Exhibit 35. It should be showing on your screen right now. 22 MR. AMATEAU: And if you zoom into the middle 23 entrance there is a storm drain system that is picking up the 24 roadway and then it conveys it to the West in front of the 25 single families. And if you pan the sheet to the left, you</p>	<p style="text-align: right;">75</p> <p>1 to left-hand corner. I see Tuckerman Lane. 2 MR. AMATEAU: Yeah. So we looked at a connection 3 to Cloister, which is south of the Academy. But because of 4 the significant disturbance that would be required on the 5 steep slope -- it's hard to see, but that shaded area is a 6 steep slope -- stream valley buffer and significant 7 (inaudible) on the floodplain and a portion of forced 8 removal, that access is just not feasible. 9 MS. GIRARD: It's also been suggested by the town 10 of Garrett Park that trucks will be incentivized to back into 11 the loading area for the residential care facility from 12 Strathmore Avenue. Can you address that concern as well? 13 MR. AMATEAU: A truck turning analysis will be 14 prepared and submitted to MCDOT and MCDPS during the 15 (inaudible) plan and site plan process. So what is showing 16 on the floating zone plan is very conceptual. 17 MS. GIRARD: Will it be -- when it is designed, 18 would it be designed to have trucks use the Strathmore for 19 that turning movement? Or would that all be accomplished on- 20 site? 21 MR. AMATEAU: It will be accomplished on-site. I 22 think that is going to be required by -- during our 23 entitlement process, from my experience. 24 MS. GIRARD: Okay. And Mr. Amateau, from an 25 engineering perspective, does the application satisfy the</p>
<p style="text-align: right;">74</p> <p>1 will see it out falling into the stream south of Strathmore 2 Avenue. And so that water will be diverted from that 3 intersection, which would help. It is not going to solve the 4 problem. 5 MR. BAUMGARDNER: Okay. 6 MS. GIRARD: Jeff? 7 MR. AMATEAU: What's that? 8 MS. GIRARD: Mr. Amateau, that's all that you want 9 to review on those plans? 10 MR. AMATEAU: I think so. I think that unless 11 there is any questions. 12 MS. GIRARD: My next question is, certain members 13 of the community also suggested that the primary access for 14 the school and propose community should be moved to the south 15 of the Academy and connect to Cloister Drive or perhaps 16 Tuckerman. Have you evaluated the visibility of providing 17 such a connection? 18 MR. AMATEAU: Yes, early on in the process. I 19 think if we can pull up Exhibit 19, I think that would show 20 the best exhibit where we probably looked at -- on this 21 exhibit, if you want to zoom in to the intersection of 22 Tuckerman and Cloister, I think that will -- 23 MR. BAUMGARDNER: And where it might that be? 24 MR. AMATEAU: That's on the bottom of the page. 25 MR. BAUMGARDNER: All right. So it's in the lower</p>	<p style="text-align: right;">76</p> <p>1 intent and standards of the proposed zone and meet the 2 applicable requirements of the zoning ordinance? 3 MR. AMATEAU: Yes, it does satisfy the intent and 4 standards of his own. We looked at existing infrastructure 5 and the development is supported by the existing utility 6 infrastructure (inaudible) anticipated off-site improvements 7 being required. We looked at sight distance with proposed 8 entrances onto Strathmore and the sight distance were more 9 than adequate for both stopping and the intersection sight 10 distances. And we also prepared a concept storm water plan 11 to ensure that the -- what was presented through this 12 floating zone process would capture 100 percent of the 13 required storm water that would be -- that will be required 14 during the entitlement and the permit process. 15 MS. GIRARD: And on the point of storm water, can 16 you just briefly explain how storm water is reviewed? Both 17 that's at this stage that you mentioned it's conceptual. 18 Were the local map amendment approved in this were to move 19 forward to preliminary site plan, can you just give us a 20 sense of what level of detail you've looked at now and what 21 level of detail you would look at and those further 22 entitlements? 23 MR. AMATEAU: So Montgomery County, State of 24 Maryland, requires a three-tier submission process. The 25 first year would be the concept storm water plan. And that</p>

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<p style="text-align: right;">77</p> <p>1 typically, a Montgomery County, is submitted with the</p> <p>2 preliminary plan. And what we've done so far other than</p> <p>3 submitting to the county, who (inaudible) is prepare that</p> <p>4 storm water concept plan. So we have done some conceptual</p> <p>5 computations. We have made sure that the target rainfall of</p> <p>6 1.8 inches is achievable with the current floating zone plan.</p> <p>7 Actually on the EYA site we were able to hit 1.88 as it</p> <p>8 currently stands and on graded wine we were able to hit 1.80.</p> <p>9 Then after preliminary plan (inaudible) plan and site plan</p> <p>10 are being submitted separately, we would do a -- prepare a</p> <p>11 site development storm water plan which would be submitted to</p> <p>12 DPS and park in planning for review. It further enhances the</p> <p>13 concept storm water plan but actually brining in and</p> <p>14 designing the storm water facilities. And then after that we</p> <p>15 would then have to prepare permit document that submit those</p> <p>16 through DPS tax to get a permit to construct those</p> <p>17 facilities. Does that answer --</p> <p>18 MS. GIRARD: It does. Thank you.</p> <p>19 MR. AMATEAU: Okay.</p> <p>20 MS. GIRARD: I think that's just a helpful</p> <p>21 overview for people not quite familiar with the process. And</p> <p>22 Mr. Amateau, from an engineering perspective, with the</p> <p>23 proposed rezoning and uses be compatible with existing</p> <p>24 adjacent development?</p> <p>25 MR. AMATEAU: The project proposes townhouses,</p>	<p style="text-align: right;">79</p> <p>1 is just the storm water calculation on the actual volume</p> <p>2 that's required to be managed. And that's as far as we have</p> <p>3 taken it so far.</p> <p>4 MR. SHAFFER: So what is the volume you estimate</p> <p>5 to be graded?</p> <p>6 MR. AMATEAU: I would need to look that up and get</p> <p>7 back to, which I can. I have the computations on my network.</p> <p>8 MR. SHAFFER: When you, when you can't let the</p> <p>9 total amount of runoff expected from a certain surface area</p> <p>10 of impermeable surface, how do you calculate the amount of</p> <p>11 water? In other words, what factor of rainfall or other</p> <p>12 precipitation do you use to calculate the total volume of</p> <p>13 water that would be created by that impermeable surface?</p> <p>14 MR. AMATEAU: So in the State of Maryland, you</p> <p>15 base your impervious -- you calculate your impervious area</p> <p>16 and then you hit your target rainfall. In this case, using</p> <p>17 the (inaudible) manual of target rainfall that we would have</p> <p>18 to manage was 1.8 inches (inaudible).</p> <p>19 MR. SHAFFER: 1.8 inches for what? Hour? Day?</p> <p>20 Year?</p> <p>21 MR. AMATEAU: It is 1.8 in. per hour over a 24</p> <p>22 hour storm event.</p> <p>23 MR. SHAFFER: Over a continuous 24 hour span?</p> <p>24 MR. AMATEAU: Yet, the 1.8 is the peak of the 24</p> <p>25 hour rainstorm.</p>
<p style="text-align: right;">78</p> <p>1 single-family, and a care facility. These uses are similar</p> <p>2 and compatible to the existing surrounding neighborhood north</p> <p>3 of the proposed project, across from Strathmore existing</p> <p>4 residential single-family houses I think to the west of the</p> <p>5 proposed project or existing residential townhouses. East</p> <p>6 and South from the project our schools. So I think it's very</p> <p>7 compatible.</p> <p>8 MS. GIRARD: Thank you. That's all I have for Mr.</p> <p>9 Amateau.</p> <p>10 MR. BAUMGARDNER: Thank you, very much. We will</p> <p>11 start with Mr. Shaffer. Any questions for Mr. Amateau?</p> <p>12 MR. SHAFFER: Yes. Hello Mr. Amateau.</p> <p>13 MR. AMATEAU: Good morning.</p> <p>14 MR. SHAFFER: Have you calculated the total amount</p> <p>15 of impermeable surfaces that would be created by this</p> <p>16 product?</p> <p>17 MR. AMATEAU: Yes we have. That was included in</p> <p>18 our computation. That was just based on the conceptual plan</p> <p>19 that was submitted with the floating zone plan.</p> <p>20 MR. SHAFFER: Okay. And using that amount of</p> <p>21 impermeable surface that you calculated, did you use that</p> <p>22 figure to calculate the estimated storm runoff from that</p> <p>23 surface? That degree of surface?</p> <p>24 MR. AMATEAU: We will prepare -- that's typically</p> <p>25 done when we do a storm drain design. What we've done so far</p>	<p style="text-align: right;">80</p> <p>1 MR. SHAFFER: Okay. You said a peek. I'm asking</p> <p>2 you if your assumption is that is 1.8 times 24 hours.</p> <p>3 MR. AMATEAU: No, that's not I was calculated.</p> <p>4 MR. SHAFFER: Okay. Now when -- in using this 1.8</p> <p>5 calculation factor that you say is what the county requires</p> <p>6 you to use, can you tell me whether that 1.8 factor takes</p> <p>7 into account the climate -- climate change and increased</p> <p>8 amount of precipitation that we anticipate over the next 10</p> <p>9 to 20 to 30 or more years in this area?</p> <p>10 MR. AMATEAU: No, I don't know that answer.</p> <p>11 MR. SHAFFER: Okay. When is this project due to</p> <p>12 be completed and fully functioning?</p> <p>13 MR. AMATEAU: I don't know.</p> <p>14 MR. SHAFFER: Okay. Let's assume this project</p> <p>15 will be functioning by (inaudible) developer would like it as</p> <p>16 fast as possible. Let's say by the end of 2024.</p> <p>17 MR. AMATEAU: Okay.</p> <p>18 MR. SHAFFER: And let's just say (inaudible) at</p> <p>19 least has an estimated life of 50 years. Okay. Now using</p> <p>20 that kind of example, how would you project the anticipated</p> <p>21 amount of storm water drainage runoff that will be created</p> <p>22 when this project is fully developed and into its full</p> <p>23 operation?</p> <p>24 MR. AMATEAU: Well, as I stated previously, the --</p> <p>25 you know, there are three different submissions that are</p>

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<p style="text-align: right;">81</p> <p>1 required to go to this county. And those submissions will</p> <p>2 meet the current design criteria. If the design criteria</p> <p>3 changes, we would adapt and adjust our storm water designed</p> <p>4 to meet whatever the county and state regs are at that time.</p> <p>5 MR. SHAFFER: (Inaudible) County regs, and your</p> <p>6 professional opinion what would be the best estimate of the</p> <p>7 total amount of volume that would be runoff in say 20 years</p> <p>8 from now from this development?</p> <p>9 MR. AMATEAU: I couldn't make a guess.</p> <p>10 MR. SHAFFER: You couldn't make a guess?</p> <p>11 MR. AMATEAU: No.</p> <p>12 MR. SHAFFER: Do you have a way of calculating</p> <p>13 that?</p> <p>14 MR. AMATEAU: No.</p> <p>15 MR. SHAFFER: Have you looked at any projections</p> <p>16 of rainfall for this area over the next 10 to 50 years based</p> <p>17 upon climate change?</p> <p>18 MR. AMATEAU: No.</p> <p>19 MR. SHAFFER: Have you considered climate change</p> <p>20 in any way in your analysis?</p> <p>21 MR. AMATEAU: No.</p> <p>22 MR. SHAFFER: Thank you. I have no further</p> <p>23 questions.</p> <p>24 MR. BAUMGARDNER: Mr. Burdin, any questions for</p> <p>25 Mr. Amateau?</p>	<p style="text-align: right;">83</p> <p>1 about? So we are clear --</p> <p>2 MR. AMATEAU: I'm not. I'm not aware that there</p> <p>3 was a discussion on a path that would connect the project</p> <p>4 site to a -- across the stream to the Symphony site.</p> <p>5 MR. BURDIN: Okay. Did you say that the site</p> <p>6 currently has no storm water management?</p> <p>7 MR. AMATEAU: That is correct.</p> <p>8 MR. BURDIN: Okay. And by that you meant no man-</p> <p>9 made storm water management, right?</p> <p>10 MR. AMATEAU: None of your traditional underground</p> <p>11 storage systems, ponds, other sort of storm water facilities</p> <p>12 or grid separators that were popular in the 80s. I mean,</p> <p>13 there are some storm drain systems that collect water from</p> <p>14 the road and outfall on-site, which I did mention in my</p> <p>15 testimony. But as far as actual storm water, I've been to</p> <p>16 the site three or four times, walked in, and I have not seen</p> <p>17 any of those sort of facilities.</p> <p>18 MR. BURDIN: Okay. But the extensive grass on the</p> <p>19 side, particularly on the field part of it, and the streams</p> <p>20 they are, they act as a natural storm water management at</p> <p>21 least to some degree; is that fair to say?</p> <p>22 MR. AMATEAU: That is fair to say.</p> <p>23 MR. BURDIN: Okay, thank you. And you mentioned</p> <p>24 that the -- when you're talking about the surrounding area of</p> <p>25 the site, you mentioned that there are residential care</p>
<p style="text-align: right;">82</p> <p>1 MR. BURDIN: Yes. Did you hear Mr. Lester mention</p> <p>2 a proposed path from the walking trail of the project to the</p> <p>3 Symphony Park trail that ultimately leads to Metro?</p> <p>4 MS. GIRARD: Objection. He's -- and Mr. Amateau</p> <p>5 did not speak of that connection. He is trying to cross him</p> <p>6 on something that someone else spoke on. We will have a</p> <p>7 future witness who will speak to that. But I don't think</p> <p>8 that Jeff is the appropriate person.</p> <p>9 MR. BURDIN: Well, this witness talked about the</p> <p>10 idea of a road to Tuckerman and opined that it would be</p> <p>11 infeasible. And so I would like to have his opinion, if he</p> <p>12 has one, or if he's looked to know -- whether he has looked</p> <p>13 at this issue of the path that would cut from the proposed</p> <p>14 project to the Symphony Park path.</p> <p>15 MR. BAUMGARDNER: I will allow the question as</p> <p>16 long as it pertains to the engineering issues that are --</p> <p>17 that have been presented so far. So if the witnesses aware</p> <p>18 of that independent of Mr. Lester's testimony, Mr. Amateau</p> <p>19 can testify if he is aware of that as a prior possibility</p> <p>20 which was investigated. So Mr. Amateau, are you aware of</p> <p>21 that potential for that cut through with the other path in a</p> <p>22 previous induration of this plan?</p> <p>23 MR. AMATEAU: I am not. That was something my</p> <p>24 team and I did not look at.</p> <p>25 MR. BURDIN: Are you aware of what I'm talking</p>	<p style="text-align: right;">84</p> <p>1 facilities. What's the closest residential care facility to</p> <p>2 the site?</p> <p>3 MR. AMATEAU: I don't remember saying there are</p> <p>4 residential facilities. What I did say is that there are</p> <p>5 single-family so the North. There was townhouses to the West</p> <p>6 and to the south and east our school sites.</p> <p>7 MR. BURDIN: Well, can the court reporter go back?</p> <p>8 I mean, it's not a big issue --</p> <p>9 (Crosstalk)</p> <p>10 MR. BURDIN: Said -- he included residential care</p> <p>11 facilities in the nearby vicinity.</p> <p>12 MR. BAUMGARDNER: I don't recall that he made that</p> <p>13 statement, but you can certainly ask again.</p> <p>14 MR. BURDIN: It's -- that's right. It's not worth</p> <p>15 it. Thank you. That's all I have.</p> <p>16 MR. BAUMGARDNER: I had just a couple of quick</p> <p>17 follow-up questions Mr. Amateau. You said that there was a</p> <p>18 run of volume that was -- that you had calculated somewhere</p> <p>19 in your calculations, correct?</p> <p>20 MR. AMATEAU: Yes.</p> <p>21 MR. BAUMGARDNER: Can you pull that up for me? If</p> <p>22 you have any. Or if Mr. Girard knows or can identify an</p> <p>23 exhibit that may have those numbers. Either way is fine with</p> <p>24 me.</p> <p>25 MR. AMATEAU: Erin I don't believe any of those</p>

<p style="text-align: right;">85</p> <p>1 were submitted as backup to the concept storm water. It 2 would just take me a couple of seconds to pull it up off our 3 network. 4 MS. GIRARD: I agree. I think it was an 5 underlying collation that went into the exhibit. But I don't 6 think the information is on the exhibit itself. 7 MR. BAUMGARDNER: If you can just take a minute to 8 pull it up, that would be helpful. 9 MR. AMATEAU: Yeah. Okay. I have the Excel 10 spreadsheet up. I just -- it's covering everybody. So hold 11 on. I'm going to move it around. 12 MR. BAUMGARDNER: All right. 13 MR. AMATEAU: So you're looking for the required 14 volume that needs to be managed on-site? 15 MR. BAUMGARDNER: That's correct. 16 MR. AMATEAU: So the required volume is 44,491 17 cubic feet. 18 MR. BAUMGARDNER: And you had also mentioned that 19 you had calculated the proposed impervious surface that would 20 result if the (inaudible) and the, at this point the concept 21 plan came to fruition. 22 MR. AMATEAU: Yes. 23 MR. BAUMGARDNER: Was that that's what was that 24 total impervious surface? 25 MR. AMATEAU: 6.81 acres.</p>	<p style="text-align: right;">87</p> <p>1 representing the Association. So we need to make sure that 2 if the folks are asking questions from the community they are 3 not representing the Association because I would not be 4 allowed. So with that caveat, with that caution, Ms. Weitz, 5 did you have any questions for Mr. Amateau? 6 MS. WEITZ: Yes, I did. But first I wanted to 7 clarify that I am not living within the Garrett Park Estates 8 Association. I am in the Strathmore Place Association and 9 that is a separate entity. 10 MR. BAUMGARDNER: Got it. Understood. 11 MS. WEITZ: Okay. So Mr. Amateau, forgive me, 12 because I feel I am not at all an expert in this. But I 13 would like a little more clarity about the possibility of an 14 entrance for the Academy of the Holy Cross using Tuckerman. 15 And as I understand it, there is already a parking lot and a 16 roadway that is on the Holy Cross property directly across 17 from Tuckerman Lane. And the roadway and Tuckerman roadbed 18 are at approximately the same elevation. And the ravine 19 between the two is approximately 20 to 30 feet lower 20 elevation and might possibly not require any disturbance 21 except for the installation of a single span bridge that 22 would only be slightly longer than the existing Stony Brook 23 community Bridge on Cloister Drive. So I'm just wondering 24 if -- and again, this is as a nonexpert in this. So I'm 25 asking you as the expert. It would seem to me that a</p>
<p style="text-align: right;">86</p> <p>1 MR. BAUMGARDNER: Thank you, very much. Ms. 2 Girard, any questions based upon mine or Mr. Shaffer's or Mr. 3 Burdin's? 4 MS. GIRARD: Just quickly, yes. Mr. Amateau, 5 you've described that you rely on County regulations that are 6 put out with certain calculations that you need to adhere to. 7 Would you consider using the county and state prescribed 8 standards as a best practice? 9 MR. AMATEAU: Yes, I do. 10 MS. GIRARD: And in your experience, would be 11 typical for a civil engineer to go above and beyond that and 12 make their own independent calculations as to future 13 conditions? 14 MR. AMATEAU: (Inaudible) I can't imagine a 15 situation where someone would do that. 16 MS. GIRARD: That's all I have. 17 MR. BAUMGARDNER: Thank you, Ms. Girard. I do see 18 two hands raised. We do need to be careful of OZAH's rules 19 here regarding questions from the public when they are 20 represented by counsel. So there is a long list of cases 21 dealing with when counsel is represented in association and 22 then having other individuals from that association question 23 witnesses. So I will ask Ms. Weitz and then I will ask Mr. 24 Ribeiro right now in that order if you have questions of Mr. 25 Amateau, but again being careful that Mr. Shaffer is</p>	<p style="text-align: right;">88</p> <p>1 separate entrance for the Academy of the Holy Cross on 2 Tuckerman would benefit not only the Academy, because 3 Tuckerman is a four-lane road that has very low traffic 4 volume which I know personally since I walk within the larger 5 neighborhood frequently. But it would also significantly 6 benefit, I would think, the new community, but the residents 7 of the new homes, as well as the Brandywine facility. And 8 could you talk to the possibility, whether you considered 9 using those existing parking lot and structures there? 10 MR. AMATEAU: I did not. My study was the 11 connection solely on our project property. It wasn't a study 12 we prepared to go across someone else's property and make 13 that connection. So I don't have an opinion one way or the 14 other if it would work were not work. 15 MS. WEITZ: So who would be able to determine 16 that? Or could that possibly be included? Because it just 17 appeared to me as a concerned citizen that there might be a 18 huge benefit to all parties with that separate entrance. 19 MR. BAUMGARDNER: So Ms. Weitz, I do understand 20 your question. But for the purposes of this application we 21 have plans in front of us. And those plans do not include 22 that option. So we really can't ask the civil engineer about 23 plans that have not been requested through the applicant and 24 we can't inquire from a neighboring property owner if there 25 might be another option, if that makes sense.</p>

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<p style="text-align: right;">89</p> <p>1 MS. WEITZ: Even though that neighboring property 2 owner is the property owner who is selling the current 3 property? 4 MR. BAUMGARDNER: It's not -- 5 MS. WEITZ: Because they are an interest in party. 6 MR. BAUMGARDNER: Sure, but it's not under the 7 subject application. And we -- 8 MS. WEITZ: With that be a question I could ask of 9 the Academy of the Holy Cross when they testify? 10 MR. BAUMGARDNER: Not today. You can certainly 11 ask that independent of this hearing. 12 MS. WEITZ: Thank you. 13 MR. BAUMGARDNER: Sure. Mr. Ribeiro, again with 14 the qualification that I believe your association is 15 represented by counsel, did you have a separate question? 16 MR. RIBEIRO: So yes, you're right. I am 17 represented. So I apologize for that. My question was 18 actually going to be -- I think he's already answered it. He 19 had talked in a statement about looking at the connection to 20 Cloister Drive. But I was going to ask my question and said 21 he was sort of getting to that as with a connection from the 22 Academy of Holy Cross to Tuckerman Lane. But if you're 23 saying that this is something that cannot be asked right 24 now -- I mean, I appreciate that Mr. Amateau has been to the 25 property several times. I'm not sure if that includes the</p>	<p style="text-align: right;">91</p> <p>1 record as I believe the witness testified, that they be made 2 a part of the record? 3 MR. BAUMGARDNER: So my understanding is that the 4 individual calculations were a part of the analysis that 5 resulted in the plans that were submitted. Ms. Girard, do 6 you have any objection to making those calculations a 7 separate exhibit to be submitted after the hearing? 8 MS. GIRARD: No. I mean, I think they are part of 9 the record by virtue of Mr. Amateau just putting them on the 10 record. So that's fine. 11 MR. BAUMGARDNER: Sure. 12 MS. GIRARD: I mean, we can certainly provide 13 those numbers in a separate document if that is what is 14 desired. 15 MR. BAUMGARDNER: That's what's being requested. 16 I think that's reasonable. I also think it's reasonable that 17 many Excel spreadsheets don't come into evidence because many 18 folks do not know how to read an Excel spreadsheet. So it's 19 certainly common that those calculations are done internally 20 and then are reproduced in a more readable format. But we 21 can certainly have those calculations broken down in a very 22 simple, yet brief form to be submitted after the hearing as 23 an additional exhibit. Is that sufficient for you, Mr. 24 Shaffer? 25 MR. SHAFFER: Yes sir, I believe so. I mean, as</p>
<p style="text-align: right;">90</p> <p>1 Academy's property and if he has seen the -- and he said he 2 reviewed the area around the Cloister Drive connection. So 3 in his professional opinion if there is a possibility to make 4 a similar sort of connection from the parking lot on the 5 south side of the Academy to Tuckerman Lane, that was going 6 to be my question. 7 MR. BAUMGARDNER: I understand. I certainly 8 understand the question. I don't think it's appropriate for 9 this hearing. But again, that is certainly something that 10 can be brought to the applicant's attention that they can 11 consider at a later time. But unfortunately, we are 12 constrained within the parameters of this application. 13 Having done this for many years, there are hundreds of 14 different possibilities for which things can be changed here 15 and there. Unfortunately, for the purposes of this 16 application we are simply constrained within the four walls 17 of the documents that we have here. It certainly doesn't 18 forestall the community's involvement reach back out to the 19 applicant if they have any interest at all and modifying 20 something. So unfortunately we will have to -- we will have 21 to leave that there. Again -- 22 MR. SHAFFER: Mr. Baumgardner, a point of order. 23 MR. BAUMGARDNER: Yes, sir. 24 MR. SHAFFER: (Inaudible). Can I request that, 25 since these underlying calculations were not submitted to the</p>	<p style="text-align: right;">92</p> <p>1 required under the best evidence rule when you give oral 2 testimony about the contents of a document that's not 3 (inaudible). 4 MR. BAUMGARDNER: Sure. Okay. We can do that. I 5 do see Mr. Edwards virtual hand rates. With the caveat and 6 qualification that I believe that Mr. Edwards is a member of 7 the Association that is represented by Mr. Shaffer. 8 MR. EDWARDS: Yes. Yes. 9 MR. BAUMGARDNER: Was there -- did you have a 10 separate question, sir? 11 MR. EDWARDS: I just wanted to clarify something. 12 So I'm actually the only officer present representing the 13 Garrett Park Estates (inaudible) Citizens' Association which 14 Mr. Shaffer represents. So Arthur Ribeiro, he was an ad hoc 15 member of the committee who we've asked to testify. But he 16 is not an officer of the committee. So he is not 17 technically, I don't believe, represented by Mr. Shaffer. 18 Neither is Cynthia or Ms. Lide, Vanessa. So they are all 19 just sort of members of the community who are here. They are 20 maybe aligned with positions of our Citizens' Association, 21 maybe. But I think technically I'm the only person 22 represented by Mr. Shaffer. Correct me if I'm wrong, but 23 just wanted to clarify. 24 MR. BAUMGARDNER: Understood. Understood. And 25 for the benefit of the court reporter, just looking on the</p>



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<p style="text-align: right;">93</p> <p>1 screen, this is Mr. Kip Edwards. Because the court reporter 2 is going to get mad at me because I have not identified you. 3 MR. EDWARDS: My apologies. 4 MR. BAUMGARDNER: Will you be testifying later, 5 sir? Or will you be -- will you be testifying later? 6 MR. EDWARDS: Yes, I will be called by Mr. Shaffer 7 to speak. 8 MR. BAUMGARDNER: Got it. Then we will get your 9 information later. I just wanted to make sure that that was 10 clear for the court reporter. 11 MS. GIRARD: Can we request clarification on that? 12 Because I've never -- I mean, is Mr. Edwards saying that Mr. 13 Shaffer and Mr. Edwards are only speaking on behalf of the 14 Board of Directors of the Association (inaudible)? 15 MR. BAUMGARDNER: And this is what gets very -- 16 and this is what gets very murky about when you have an 17 association represented by counsel in terms of how a hearing 18 is conducted. If I hear Mr. Edwards correctly, and if I 19 understand how we are proceeding today, Mr. Shaffer is 20 represented the Association. And I don't know how that 21 Association is organized. They are all organized 22 differently. But so that if there are individual members in 23 the community that wish to testify on their own, they can 24 certainly do so like any hearing. But if there's going to be 25 testimony from a director or some other official on behalf of</p>	<p style="text-align: right;">95</p> <p>1 for Mr. Amateau. 2 MR. BAUMGARDNER: Okay. The time is exactly noon. 3 It actually just clicked over to 12:01. So we are going to 4 take our hour lunch break right now. We will reconvene at 5 1:00 p.m. and then we will continue the direct exam of Ms. 6 Girard, of Ms. Girard's witnesses from the applicant. Any 7 questions, issues, or anything like that before we break and 8 reconvene for 1:00 p.m.? All right. Thank you all very 9 much. We will see you in about an hour. 10 (Off the record at 12:01:33 p.m.) 11 (Back on the record at 1:01:58 p.m.) 12 MR. BAUMGARDNER: Mr. Costello, are you there? 13 COURT REPORTER: Yes, I'm here. 14 MR. BAUMGARDNER: Great. So we are -- we're going 15 to reconvene this case. This is LMA 143, the rezoning of a 16 property located at 4910 (02:18:50) 4920 Strathmore Avenue. 17 We have completed a number of witnesses. We are going to 18 continue this case here today. It is approximately 1:02 p.m. 19 on January 31. We had left off with Ms. Girard's last 20 witness. So we are going to move forward with the applicant's 21 next witness. You're welcome to proceed whenever you 22 wish. 23 MS. GIRARD: Great. Thank you. What next like to 24 call Josh Sloan. 25 MR. SLOAN: Good afternoon.</p>
<p style="text-align: right;">94</p> <p>1 the Association, those questions and that testimony would 2 have to come through counsel and then through that witness 3 vis-à-vis the Association. Does that make sense Ms. Girard? 4 MS. GIRARD: It does. I just -- I think your 5 point is well taken from earlier that if Mr. Ribeiro is 6 actually a witness that's going to be called by the 7 Association, it seems a little strange that he is also being 8 allowed to act independently. I don't want to make a big 9 stink about it. I'm just saying it's -- I want to be clear 10 as to when Mr. Edwards and Mr. Shaffer speak, who they are 11 speaking on behalf of. 12 MR. BAUMGARDNER: It does get quite murky. The 13 reason I allow generally, limited questions from someone like 14 Mr. Ribeiro in this particular instance is that it can be on 15 behalf of personal, self, who happens to live in the 16 community who may or may not be a member of an association. 17 So that's why it's a little bit flexible. But we are not 18 going to go down the road of having each individual member 19 that's a member of the Association ask questions in addition 20 to Mr. Shaffer, because then the hearing itself just becomes 21 unwieldy at that point. That's the clarity on that 22 particular issue. All right. Any redirect Ms. Girard from 23 the testimony from Mr. Amateau? 24 MS. GIRARD: No. And I will (inaudible) we will 25 submit the calculations it separately. And that's all I have</p>	<p style="text-align: right;">96</p> <p>1 MR. BAUMGARDNER: Good afternoon, Mr. Sloan. 2 Please give us your full name, your business address, and a 3 good business email address, please. 4 MR. SLOAN: Joshua Sloan with Vika Maryland at 5 20251 Century Boulevard, Suite 400, Germantown, Maryland, 6 20874. Email is Sloan@Vika.com. 7 MR. BAUMGARDNER: Thank you. And can you please 8 raise your right hand? 9 (Oath Administered) 10 MR. BAUMGARDNER: All right. Ms. Girard, the 11 witness is yours. 12 MS. GIRARD: Thank you. Mr. Sloan, what your 13 occupation? 14 MR. SLOAN: I'm a landscape architect and planner 15 since the last 25 years or so. 16 MS. GIRARD: And what your professional and 17 educational background? 18 MR. SLOAN: I have a BA in biology and a Masters 19 of landscape architecture. I've spent about 18 years in 20 private practice in design, construction, and management of 21 landscape architecture and planning projects. And I have 22 about seven years of public practice experience in develop 23 and review master planning and zoning. 24 MR. BAUMGARDNER: Ms. Girard, I'm sorry. I 25 neglected to check with Mr. Shaffer to see if he was back</p>

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<p style="text-align: right;">97</p> <p>1 with us. Mr. Shaffer, are you there?</p> <p>2 MR. SHAFFER: Yes, I am. Are you not seeing me?</p> <p>3 MR. BAUMGARDNER: No, not on my screen, but that's</p> <p>4 just because of the way that my screen was. I just wanted to</p> <p>5 make sure that -- oh, there you are.</p> <p>6 MR. SHAFFER: Thank you.</p> <p>7 MR. BAUMGARDNER: Yeah. My apologies. Mr. R, you</p> <p>8 may continue.</p> <p>9 MS. GIRARD: No problem. I was just going to note</p> <p>10 that Mr. Sloan's resume is included in the record at Exhibit</p> <p>11 49B. And Mr. Sloan, have you testified before the hearing</p> <p>12 examiner before?</p> <p>13 MR. SLOAN: Yes, several times.</p> <p>14 MS. GIRARD: Given his previous admission as an</p> <p>15 expert and his resume and his background which you just</p> <p>16 reviewed, I would like to move that Josh Sloan be accepted as</p> <p>17 an expert in LAN planning and landscape architecture.</p> <p>18 MR. SHAFFER: Mr. Shaffer or Mr. Burdin, any</p> <p>19 further voir dire of this expert witness or any objection to</p> <p>20 him being admitted in the field of land planning?</p> <p>21 MR. BURDIN: No.</p> <p>22 MR. SHAFFER: Can I just ask what that entails?</p> <p>23 Landscape planning? A little more detail about his expertise</p> <p>24 and familiarity with the site. And to be frank, it has to do</p> <p>25 with the cross bath, whether that falls under his purview or</p>	<p style="text-align: right;">99</p> <p>1 MR. BAUMGARDNER: Okay. Mr. Sloan has been</p> <p>2 admitted by OZAH and other agencies as an expert before. I</p> <p>3 have reviewed his resume as Exhibit 49B. He is hereby</p> <p>4 admitted as an expert in land planning and landscape</p> <p>5 architecture for the purposes of this hearing.</p> <p>6 MS. GIRARD: Great. Thank you. Mr. Sloan, are</p> <p>7 you familiar with the property that is the subject of local</p> <p>8 map amendment LMA 143 in the area surrounding the property?</p> <p>9 MR. SLOAN: Yes, I worked on this project over the</p> <p>10 past year plus with of the applicant and the design team.</p> <p>11 I've been on site several times including meetings with the</p> <p>12 Maryland Department of Environment to establish boundaries of</p> <p>13 wetlands and streams and also did a significant amount of</p> <p>14 fieldwork with my colleagues on the NRIFSD and also have</p> <p>15 visited the site, taken Metro there to walk the walk and see</p> <p>16 what it was like, and also around the neighborhood.</p> <p>17 MS. GIRARD: Are you familiar with the approved</p> <p>18 and adopted North Bethesda Garrett Park master plan and its</p> <p>19 recommendations with respect to the subject property and the</p> <p>20 surrounding area?</p> <p>21 MR. SLOAN: Yes, I have read the master plan and</p> <p>22 focused on this particular area and recommendations in</p> <p>23 particular. It's a 1992 plan. I caught up on that.</p> <p>24 MS. GIRARD: And are you familiar with the</p> <p>25 requirements of the zoning ordinance with respect to local</p>
<p style="text-align: right;">98</p> <p>1 someone else.</p> <p>2 MR. BAUMGARDNER: Sure. Mr. Sloan, if you can</p> <p>3 expand a little bit in terms of the land planning aspect in</p> <p>4 the greater development world, what's included in land</p> <p>5 planning and the landscape architecture aspect of the</p> <p>6 particular plan.</p> <p>7 MR. SLOAN: Okay. I will give it a shot. So land</p> <p>8 planning is a pretty broad topic. I'm certified by the</p> <p>9 American Institute of certified planners, which is a national</p> <p>10 organization that ensures those of us in the field are</p> <p>11 practicing with of the public interest in mind under a code</p> <p>12 of ethics. And that covers everything from land-use planning</p> <p>13 and zoning, which is primarily the topic of this case, to</p> <p>14 specialties that some folks have an transportation planning,</p> <p>15 environmental planning, urban design. My particular focus</p> <p>16 being trained as a landscape architect originally is really</p> <p>17 on the urban design and environmental aspects of site design.</p> <p>18 So that's circulation patterns, block and road layout down to</p> <p>19 the specifics of site design elements like sidewalks and</p> <p>20 street trees and (inaudible) and recreation facilities. So</p> <p>21 pretty broad. I should build a take -- be able to answer</p> <p>22 questions that you have on these matters.</p> <p>23 MR. BAUMGARDNER: Any further questions about that</p> <p>24 particular area of expertise?</p> <p>25 MR. SHAFFER: I don't, thank you.</p>	<p style="text-align: right;">100</p> <p>1 map amendments?</p> <p>2 MR. SLOAN: Yes, I have analyzed the standards and</p> <p>3 requirements of the rezoning under a local map amendment.</p> <p>4 MS. GIRARD: Can you review for us the findings</p> <p>5 and conclusions of your land planning analysis?</p> <p>6 MR. SLOAN: Sure. So I will try not to repeat too</p> <p>7 much of what has been said. But want to offer some amount of</p> <p>8 detail to this. At first I would like to bring up Exhibit 7,</p> <p>9 which is the identification plat.</p> <p>10 MR. BAUMGARDNER: Sure, one second.</p> <p>11 MR. SLOAN: Thank you. So on the screen now as</p> <p>12 Exhibit 7. This is the identification plat that was created</p> <p>13 by the survey department at Vika and signed by a professional</p> <p>14 land surveyor. This shows parcel A, which is the property</p> <p>15 owned by the Sisters of the Holy Cross. In two pieces are</p> <p>16 parts of parcel B, which is owned by the Academy of the Holy</p> <p>17 Cross. The entirety of parcel A and part of parcel B on the</p> <p>18 northwest corner of the property are subject to this</p> <p>19 rezoning. Those total approximately 15.3 acres. The</p> <p>20 remaining parcel B that will be retained by the Academy of</p> <p>21 the Holy Cross, that is approximately -- I think it's 23.2</p> <p>22 acres. Oh, it's as it right on there. I didn't look at my</p> <p>23 notes. So that is not subject to the rezoning, but will be</p> <p>24 subdivided off at a later date with a preliminary plan.</p> <p>25 These two parcels, parcel A and parcel B are currently</p>

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<p style="text-align: right;">101</p> <p>1 bisected by a private drive that serves the Academy of the  2 holy cross. And that will be relocated. So those are the  3 subject areas of the application. And if we could bring up  4 Exhibit 19, I would like to walk through a little bit more on  5 the existing conditions and environmental aspects of the  6 property.  7 MR. BAUMGARDNER: One second while it loads.  8 MR. SLOAN: Yeah, there's quite a lot of  9 information on this. So this exhibit that's up now is  10 Exhibit 19, the approved NRIFSD. This was completed by Vika,  11 sent to MNCPPC and they have approved it. The NRIFSD,  12 natural resources inventory and force stand delineation, this  13 covers the entirety of the property, but the subject of this  14 application for rezoning. And a piece of property that is  15 not subject to the rezoning will be later re-subdivided. If  16 we could go to sheet 2, which I believe is the -- nope,  17 that's all of our geotechnical analysis and floodplain study  18 approvals. I don't know if we could actually go to sheet 3.  19 Sorry. I'm just going to walk in a little more detail around  20 the subject site. Starting in the Northwest, which is the  21 top left of the drawing, there is a culvert that a stream  22 runs through under Strathmore Avenue. It enters the site and  23 the northwest corner and travels along the western boundary  24 of the property all the way down to a culvert the goes under  25 Cloister, a private right-of-way that serves townhouses to</p>	<p style="text-align: right;">103</p> <p>1 MR. BAUMGARDNER: So this is page 5 of Exhibit 34.  2 MR. SLOAN: Thank you. So this exhibit shows an  3 aerial view of the property and the surrounding area. To the  4 north Garrett Park Estates, to the east, Garrett Park. To  5 the south is the Metro, some townhouse developments. To the  6 west is Symphony Park. The property that subject to the  7 rezoning is outlined in red. The neighborhood boundary that  8 we established is surrounded in -- is outlined in blue. And  9 it really encompasses many of the single-family detached  10 homes in Garrett Park Estates north of us, about two blocks  11 to the north, the institutional school uses to our east, of  12 course the school to ourselves, which I understand is causing  13 some confusion because it is not actually subject to this  14 application because it's going to be rezoned. And then  15 Symphony Park and the Strathmore Hall to our west. This  16 establishes those areas that are most impacted for testing  17 our compatibility standards. There were some questions  18 brought up when we were at park and planning hearing about  19 the townhouses further to the northwest. And those were not  20 included because they are not directly adjacent. And when we  21 are looking at neighborhood compatibility for issues, that's  22 a separate issue from whether there are any impacts to -- for  23 traffic, schools, or other things. Those have separate tests  24 that are not part of this neighborhood definitions running  25 property tests that we are looking at. So when we looked at</p>
<p style="text-align: right;">102</p> <p>1 our south. That tributary of Rock Creek is subject to a  2 (inaudible) floodplain as well as a Montgomery County  3 floodplain for which we submitted and had a study approved.  4 It's also the area where there is most of forested land and  5 steep slopes and stream Valley buffers. So as we go around  6 the top of the site on the northern boundary along Strathmore  7 Avenue, there are two large fields just to the east of the --  8 that tributary. Then the bisecting road. And then the SHA  9 building itself and its parking lot. It is in parcel A.  10 About midway down the -- into the southeast of the Sisters'  11 property is a second tributary which comes from the east and  12 then travels to the west, goes under a culvert, which then is  13 piped to an outfall to the primary tributary on the western  14 side of the property. There are no forests associated with  15 this tributary, but there are some wetlands and an associated  16 stream valley buffer. The remainder of the property is  17 occupied by the fields, the building, the parking lot for the  18 Academy. There is some forest in land along the south east  19 and southern border of that property. So that's the general  20 overview of the site and the environmental characteristics in  21 a little more detail. So I think I can move on to a  22 description of the defined neighborhood and the surrounding  23 properties. And I think the easiest thing to do for this is  24 to look at Exhibit 34 of the land -- which is the land  25 planning report, and figure 2 in that land planning report.</p>	<p style="text-align: right;">104</p> <p>1 compatibility we are really looking at, does the residential  2 care facility, the detached homes, and the townhouses, are  3 they compatible with the uses and the general character of  4 the neighborhood directly surrounding us. And I found that  5 we certainly are similar uses and similar size and character  6 to the buildings that are around us. So looking a little bit  7 more at the that's a little more closely at the proposed  8 redevelopment, if we can look at Exhibit 40, that's the  9 floating zone plan, sheet 2 that we were looking at earlier.  10 MR. BAUMGARDNER: It should be coming up  11 momentarily. So this is Exhibit 40, page 2.  12 MR. SLOAN: Excellent, thank you. So this exhibit  13 shows the conceptual layout of the building footprints, the  14 street and sidewalk that works, and the -- not many of the  15 details yet, which we will be getting to when we hope to get  16 the site plan design. The residential care building is  17 proposed on the Sisters' property. It would replace the  18 existing retirement building that is in the northeast corner.  19 A central road is just to the west of that building running  20 from Strathmore Avenue in the connecting to the existing  21 driveway at the Academy midway down the combined properties.  22 To the west of that central road there are detached homes  23 basing Strathmore Avenue that would be served by an alley in  24 the rear of those homes. That alley then serves internal  25 townhouses. They are front and reloaded townhouses that are</p>

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<p>105</p> <p>1 entirely within the site, not abutting any of the adjacent 2 streets were properties. And there is a secondary road that 3 is along Stillwater, or across from Stillwater Avenue at the 4 intersection with Strathmore Avenue. This comes down to the 5 site heading south and then curved to our Central Street. 6 And then there are other streets and blocks that define that, 7 the internal areas of the site. To the -- or to the east of 8 the residential care building, we have a small service area 9 about where one of the existing driveway access point is for 10 the retirement care, retirement building that is on site now. 11 This will provide about nine parking spaces and access to 12 service and loading, but no access to a garage. So that will 13 only be used for service. 14 Of a small service area about where one of the 15 existing driveway access points is for the retirement 16 building that's on site now. This will provide about nine 17 parking spaces and access to service and loading but no 18 access to a garage so that will only be used for service. 19 The primary drop off area for the residential care 20 building is on their western facing side and then their 21 access to the garage is on the south facing side. The 22 question was brought up earlier about how the bus would pick 23 up, drop off and how it would get to the garage. All of that 24 is internal so when the garage or when the bus drops people 25 off after an event or an outing they would head south</p>	<p>107</p> <p>1 the pedestrian circulation system where there are shared use 2 paths, where there are the proposed natural surface trail, so 3 people can see how the circulation network will work for 4 various modes of transportation. So along Strathmore Avenue, 5 we are proposing a lawn panel and a shared use path that 6 would allow for bikers and pedestrians to use Strathmore 7 Avenue. That's an improvement over the existing sidewalk 8 that's there today. 9 You can see the turning movements at the center 10 showing the single lane coming into the site at our primary 11 access point, Street A, and then we have two lanes exiting 12 the site, one that will allow for left turns and one will 13 allow for right turns, and as I noted on Strathmore Avenue 14 itself now a three-lane road from the east allowing traffic 15 to turn into the site and not block traffic that wants to 16 continue on towards 355 along Strathmore Avenue. 17 And then, the intersection at Stillwater with what 18 we call Street C which is our secondary road on the west side 19 of the site, that is three way movements at all 20 intersections. So left, right, and straight are allowed at 21 each travel lane. 22 So this is the revised plan. It was not the 23 original plan that we brought to park and planning. 24 Originally we did have one primary access point for vehicular 25 traffic and given the amount of use and the types of use that</p>
<p>106</p> <p>1 internal to the site into the garage. 2 And we've been designing the building and the 3 garage -- great elevation so that we can accommodate that. 4 We've still got work to do on it, but we've got another phase 5 of design to go before we get through entitlement approvals. 6 So this primary road, we call Street A that runs 7 north, south through the center of the site, this is where a 8 proposed traffic light would go. This -- there are some 9 improvements that are just being conceptionally designed 10 right now to change this intersection from a two-lane road to 11 actually a three-lane road so we would have a dedicated left 12 turn. It requires a little bit of widening of a curb and 13 then some improvements to the bus stop to our north. So 14 that's that primary intersection. 15 I think, if we look for some more details at 16 Exhibit 37 of the circulation plan there are a couple of 17 questions and things that I think we can cover with that. I 18 don't think we've looked at this one yet. 19 HEARING EXAMINER BAUMGARDNER: So we don't have 30 20 up on the website. I can bring it up if you need it. 21 MR. SLOAN: Do we have 37, the revised? 22 HEARING EXAMINER BAUMGARDNER: Yes. 23 MR. SLOAN: So I think these were -- yes. 24 Excellent. So Exhibit 37 is the circulation plan and this is 25 a diagrammatic plan that shows vehicular movements, lays out</p>	<p>108</p> <p>1 was happening over the day with the school, the residential 2 care facility and the residences we worked with park and 3 planning technical staff to add this second entrance point. 4 It became a secondary entrance point aligned with Stillwater 5 to improve the safety conditions so that we were directly 6 aligned and you have a good line of site across the 7 intersection. 8 The current access point to the Academy is offset 9 a little bit and not as safe as it could be. We did not make 10 this our primary access point for several reasons. One, 11 because the Academy does require some dedicated queuing area 12 and so we allowed for that queuing space on Street A as well 13 as the parking that would not block any driveways that would 14 be -- that we would need if we were on our secondary road in 15 front of some of the townhouses. 16 Another reason is that making that area a primary 17 intersection point we would actually increase the width of 18 our right-of-way and that would push us into a protected 19 environmental buffers and the flood plain and our overall 20 goal with our footprint and our roads was to consolidate them 21 on as little space as possible and protect those 22 environmental buffers and minimize, or actually remove, any 23 impacts to the flood plain because we know there are concerns 24 about upstream flooding and we did not want to reduce any 25 capacity of the flood plain system that's on this property.</p>

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<p style="text-align: right;">109</p> <p>1 So we very carefully graded and established those</p> <p>2 footprints to ensure we were making this situation as good as</p> <p>3 possible. As good as it is today and even better for</p> <p>4 capacity.</p> <p>5 Another is that because we're serving three uses</p> <p>6 with our primary access we wanted to ensure that fire access,</p> <p>7 rescue access, had that signalized intersection and direct</p> <p>8 access to the different uses, not have to come through a</p> <p>9 couple of neighborhood streets where only the residential</p> <p>10 uses are. So those were the general guiding principles for</p> <p>11 circulation and layout plan for buildings, roads (inaudible).</p> <p>12 And next, I wanted to look a little more carefully</p> <p>13 at the environmental buffers and our forest conservation</p> <p>14 approach. So if we could bring up Exhibit 52, the</p> <p>15 preliminary forest plan. This will show a little more detail</p> <p>16 about how we approached this. So our (inaudible) getting</p> <p>17 feedback from Margaret.</p> <p>18 MARGARET: Oh sorry.</p> <p>19 MR. SLOAN: Sorry.</p> <p>20 MARGARET: Sorry, I'll hang up.</p> <p>21 MR. SLOAN: Oh, you didn't need to leave. Sorry.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Folks can come</p> <p>23 back, you just have to mute. That's okay.</p> <p>24 MR. SLOAN: So our natural resources inventory</p> <p>25 forest stand delineation plan and our flood plain study that</p>	<p style="text-align: right;">111</p> <p>1 the preliminary forest conservation plan and the conservation</p> <p>2 easements and the variance trees, which I'll note in a</p> <p>3 minute, those have all been approved by the planning board at</p> <p>4 this point.</p> <p>5 And then, we have a second round when we will do a</p> <p>6 final forest conservation plan that, without site plan</p> <p>7 submittal, that will add a lot of details to this; what kind</p> <p>8 of plant species and what not, we're going to be providing,</p> <p>9 and what kind of mitigation we're going to be providing for</p> <p>10 variance trees, those kind of things.</p> <p>11 So right now, we're established at 3.0 acres of</p> <p>12 conservation area in those two types of easements. That's</p> <p>13 about .3 acres above our requirement. We are doing a little</p> <p>14 bit extra because although we avoided all stream valley</p> <p>15 buffers with our building footprints and our roads we may</p> <p>16 have some areas that a deck or a patio, we want to keep that</p> <p>17 ability to be built and those are right along the edges of a</p> <p>18 couple of lots. So we're going to actually increased our</p> <p>19 conservation and our buffer area to kind of mitigate for any</p> <p>20 of those impacts.</p> <p>21 We do, along with that preliminary forest</p> <p>22 conservation plan, have an approved variance for removing</p> <p>23 what are called specimen trees. Those are trees that have a</p> <p>24 30 inch diameter at breast height, so about five feet off the</p> <p>25 ground, if the tree is 30 inches in diameter or larger, it</p>
<p style="text-align: right;">110</p> <p>1 went through the department of permitting services approval,</p> <p>2 that established our buffers. And in keeping with MNCPPC's</p> <p>3 environmental guidelines, we do everything we can to avoid</p> <p>4 environmental buffers, maintain pervious areas in those</p> <p>5 buffers and then prioritize them for establishment and</p> <p>6 protection of forests, protection of wetlands and an</p> <p>7 enhancement of those with planting through conservation</p> <p>8 easements.</p> <p>9 If we could look at the second sheet, I believe.</p> <p>10 That's the actual forest conservation plan. It's a very</p> <p>11 detailed plan, there's a lot to look at on this plan, but</p> <p>12 I'll just note a couple of things. The first is the</p> <p>13 tributary along our western side and the tributary that runs</p> <p>14 across the site east to west, those areas are all proposed</p> <p>15 for conservation easements and we have two types of</p> <p>16 conservation easements on this property, what are called</p> <p>17 category one conservation easements, which are basically</p> <p>18 natural state left alone. They will be replanted, reforested</p> <p>19 and habitat will be established there.</p> <p>20 Those certainly protect along the stream banks and</p> <p>21 the wetland areas. The other areas we have are called</p> <p>22 category 2 conservation easements and those are a little more</p> <p>23 flexible, although canopy and habitat plantings are proposed</p> <p>24 in those areas they do allow for some amount of recreation</p> <p>25 and engagement with those spaces. So those have been set,</p>	<p style="text-align: right;">112</p> <p>1 requires a variance for removal. And under the planning</p> <p>2 board's guidelines, although not state guidelines, there's</p> <p>3 mitigation for those. So for those removals we'll be</p> <p>4 planting an additional 40 or so replacement trees on site in</p> <p>5 areas that have sufficient soil volume and space to create a</p> <p>6 canopy that will match, basically, what we've been taking</p> <p>7 away.</p> <p>8 So those are -- that's the environmental strategy</p> <p>9 for this property. As noted, we've got another round to go</p> <p>10 that's going to add a lot of detail to that and we'll be</p> <p>11 working on those plans, we hope, in the upcoming months, if</p> <p>12 we get through the rezoning.</p> <p>13 So a couple of last points real quickly on the</p> <p>14 master plan. The master plan for this area does, and I don't</p> <p>15 have a specific exhibit for this. As I noted it's a 1992</p> <p>16 master plan. I was still in grad school when this was</p> <p>17 adopted and -- but it did have some overriding principals</p> <p>18 that I think have kept up with the times, increasing and</p> <p>19 preserving a variety of housing stock, especially around</p> <p>20 transportation options. Providing senior housing</p> <p>21 opportunities. Even then, we saw the bubble of senior</p> <p>22 housing needs coming and that has not abated at all.</p> <p>23 Provides safe and efficient transportation options so we have</p> <p>24 the shared use trail and the connectivity will be connecting</p> <p>25 to the bus stop, providing a crosswalk at a lighted</p>

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<p style="text-align: right;">113</p> <p>1 intersection out to that bus stop. Meeting recreational 2 needs of the public, we're going to be providing on-site 3 space for that recreation, but we also have significant park 4 facilities within walking distance. 5 And then, reducing environmental impacts. This is 6 a site without any stormwater management. There are fields 7 and things, but cut and mowed lawn is not the same as 8 providing the kind of forest and habitat that we're proposing 9 as well as the quality managing of the storm water that we're 10 proposing for roads that right now discharge directly into 11 the stream. 12 So technical staff went through the same analysis. 13 We agree with them on those general recommendations. But 14 also the replacement of the retirement community with a 15 residential care facility is basically a one-to-one change 16 in -- or not even change in use but very similar in 17 character. And then, the new residential uses that are 18 proposed near transportation, transit, infrastructure and 19 improving the environmental conditions is a balance that they 20 found was appropriate and we agree with. 21 It's been touched on before about compatibility of 22 these uses and I think the master plan analysis kind of 23 speaks to that as well. These are similar uses, residential 24 uses next to residential uses, building types that are 25 proposed that are similar or nearly identical to what our</p>	<p style="text-align: right;">115</p> <p>1 is termed in the zoning ordinance, public open space and that 2 is specifically required for the residential care facility 3 type of use. Then, there is a blue hatching that's on 4 several different areas that is showing our proposed common 5 open space which is the type of open space that is required 6 for the townhouse uses. 7 Our public open space is a network area of sort of 8 a little park seating area at our primary entrance near the 9 Strathmore Avenue Street A intersection just to the northwest 10 of this residential care facility. And then, we have two 11 areas that are under design right now that are south of the 12 residential care facility. We're looking at these as a kind 13 of a terraced garden space and then an intergenerational kind 14 of play, flexible open space that will accommodate all three 15 different uses. 16 And we set these up at the hub between the three 17 different types of uses so that they would be accessible and 18 visible to all, and we can start designing them with 19 programming that will benefit everybody. So it's a little 20 bit different than we typically establish our open spaces, 21 but we thought that this was an interesting way to do it and 22 meet the needs of various uses and protect the more important 23 areas of open space, which are the environmental conservation 24 areas. 25 The common open space, this is a little more</p>
<p style="text-align: right;">114</p> <p>1 next door or across from us. And the heights and massing of 2 those is also very similar. 3 We have not done -- we do a preliminary plan and 4 at that preliminary plan our next phase, there is a 2020 to 5 2024 growth and infrastructure policy under which we will be 6 doing our schools test. And so that's not done at this time, 7 but we feel we have a way forward on that piece. There are 8 other public facilities. We of course, have the schools 9 nearby, and as staff noted fire and rescue, police, parks and 10 recreation, those are all nearby facilities with adequate 11 capacity, and we agree with them on those topics. 12 So that's a broad overview of a lot of stuff for 13 the application. 14 MS. GIRARD: Thanks, Josh. And you touched on 15 this a little bit, but with regard to the open space, members 16 of the community have questioned the sufficiency of the 17 proposed spaces to serve the development, as well as the lack 18 of design. Can you address those concerns? 19 MR. SLOAN: Yes. I guess we could bring up -- I 20 didn't think about that. We could bring up the Exhibit 41, 21 the revised open space plan. So this is a unique site. And 22 coming up on the screen there is Exhibit 41 and that's the 23 open space exhibit. This shows the building footprints, the 24 road and sidewalk layout, with two distinct areas or types of 25 hatching. There is a red hatching that shows what we -- what</p>	<p style="text-align: right;">116</p> <p>1 diversified. There are a couple of internal spaces where the 2 townhouses form little park areas that will be primarily lawn 3 seating passive areas where people can play with young 4 children and picnic and throw a frisbee, those kind of 5 things. But our main element for that recreation open space 6 is going to be focused on this natural surface trail that 7 runs within our category 2 easement and to our -- to the west 8 and then the south of the townhomes. 9 This is really going to focus people and get them 10 down and engaged with the natural conservation areas where we 11 are going to be planting different types of habitat species 12 and provide screening to the school. And also maintain no 13 impervious area really, so that we can keep the environmental 14 quality there. So it's very unique in those aspects. It's 15 focused on the environmental open spaces. 16 The design is where it is at this point, is 17 conceptual in nature. We're working out these ideas. Staff 18 has given us good input on the direction, and when we have a 19 site plan design we're going to have the details much more 20 fleshed out for -- at a schematic level so people can give us 21 their feedback on what we're proposing in more detail at that 22 time. 23 MS. GIRARD: One other question on, not really 24 necessarily open space, but there has been a number of 25 comments in the community about the median that separates</p>

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<p style="text-align: right;">117</p> <p>1 this property from the north side of Strathmore Avenue. It's  2 a green strip within the right-of-way. And did you look at  3 what impacts the project may have on that green space?  4 MR. SLOAN: We did start looking at it and right  5 now our impacts are limited to the curb and the bus stop area  6 for improvements to the road that we think we're going to  7 need. That's a conceptual design that is going to need to be  8 fleshed out in much more detail when we sit down with DOT/SHA  9 and review agency at preliminary plan phase. We will also  10 have connections to utilities. There's water that we need to  11 connect to in Strathmore Avenue right-of-way and that may  12 cross the median.  13 So our goal will be at that point when we do our  14 hydro planning analysis that I think Mr. Amateau mentioned  15 with WSSC to locate that or construct it in a manner that  16 will minimize impacts and then any impacts will require a  17 right-of-way plan and a tree and lighting plan for that which  18 would then require mitigation for any tree removals, so that  19 we can reestablish the canopy and the buffer that I  20 understand the community is concerned about.  21 MS. GIRARD: Thank you. So in your opinion, based  22 on your testimony and your studies, your land planning report  23 included in the record, will the proposed rezoning comply  24 with the intent, standards and requirements of the CRN  25 floating zone?</p>	<p style="text-align: right;">119</p> <p>1 the plan, the general recommendations that I outlined  2 earlier. It also meets the recommendations of a much more  3 recent plan, the set up plans, the bicycle plan for the  4 county and the master plan of highways and transitways,  5 specifically by our -- with regard to our upgrades to the  6 right of way in Strathmore Avenue.  7 MS. GIRARD: And in your expert opinion as a land  8 planner, does the LMA further the public interest and satisfy  9 the intent and standards of the proposed zone and other  10 requirements of the zoning ordinance?  11 MR. SLOAN: Yes. My opinion is that it does serve  12 the public interest in several ways. One, it provides a  13 residential care facility, replacing the vacant building now  14 for our aging population. It provides housing including  15 moderately priced dwelling units at a time when we are facing  16 a housing shortage. It does place density appropriately near  17 transit and other services. And it will significantly  18 improve the environmental conditions of these two tributaries  19 that drain to the Rock Creek by placing conservation  20 easements on them and enhancing the habitat and forest in  21 those areas.  22 Regarding the zoning standards we still have a lot  23 to detail where we've got a lot to design at our next phase,  24 but we have met the intents and standards and requirements  25 that I went through before, I think, in detail.</p>
<p style="text-align: right;">118</p> <p>1 MR. SLOAN: Yes. The intents of the master plan,  2 the functional plans for the floating zone, they are really  3 to ensure that uses and density are in balance with  4 supporting existing infrastructure. We have water, sewer.  5 We have transportation network, multi-modal. Of course,  6 we'll touch on more detail, the vehicular aspects of that.  7 But we also have paths and -- shared use paths and sidewalks.  8 The CRN floating zone also has the intent to  9 provide flexible standards to integrate development into the  10 land use patterns, the circulation network and the natural  11 resource of the site. And we specifically took advantage of  12 those flexible standards to create a small footprint for our  13 developments for these units to take advantage of our natural  14 resources and actually be able to enhance them with  15 protective easements and engage the users of the property  16 with those natural resources, and then tie into the  17 circulation network with appropriate intersections and  18 circulation by sidewalk and path designs.  19 We also meet the use density open space and other  20 requirements of the CRN floating zone.  21 MS. GIRARD: Thank you. And in your opinion, does  22 the floating zone plan conform to the recommendations of the  23 North Bethesda Garret Park Master Plan and other applicable  24 county plans?  25 MR. SLOAN: Yes, it meets the recommendations of</p>	<p style="text-align: right;">120</p> <p>1 MS. GIRARD: And in your expert opinion as a land  2 planner, are the proposed uses suitable for the site and  3 compatible with the existing improved adjacent development?  4 MR. SLOAN: Yes. For compatibility as I noted we  5 typically look for similarity in uses, in massing and height  6 in the overall pattern of the blocks and street network and  7 we are proposing a very similar and suitably compatible set  8 of uses and land design for the proposal.  9 MS. GIRARD: Thank you. And finally, in your  10 expert opinion as a land planner, will the proposed  11 development adversely affect the character of the surrounding  12 area?  13 MR. SLOAN: No. I do not think it will adversely  14 impact the character of the surrounding neighborhood. The  15 uses are similar in nature, around residential, residential  16 care where there was a retirement facility which is also  17 residential use. Building heights and massing are not going  18 to adversely impact the neighborhood. We've got single unit  19 detached units facing single unit detached units, have placed  20 our townhouses within the site even though we're adjacent to  21 townhouses and pretty close to other ones.  22 And then, the roads, open spaces and block  23 patterns are very similar to those in the area. And so it  24 does not change the character of those neighborhoods in any  25 way.</p>

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<p style="text-align: right;">121</p> <p>1 MS. GIRARD: Thank you. That's all I had for Mr.  2 Sloan.  3 HEARING EXAMINER BAUMGARDNER: Thank you very  4 much.  5 Mr. Shaffer, any questions for Mr. Sloan?  6 MR. SHAFFER: Yes, thank you.  7 Well, good afternoon, Mr. Sloan. Going to the --  8 you mentioned that you had gone out to the site with the  9 Maryland Department of Environmental Quality and evaluated  10 the wetlands and other protected areas; is that correct?  11 MR. SLOAN: Correct. The Maryland Department of  12 the Environment.  13 MR. SHAFFER: Okay. So have you made a  14 determination as to whether the project would have any  15 adverse impact on the wetlands there?  16 MR. SLOAN: As part of our forest conservation  17 plan, we have provided a -- right now, several of those  18 wetlands are actually mowed lawn and we will be providing  19 putting those areas -- and they're not protected by easement  20 either. We will be putting a conservation easement over  21 those areas and 25 foot buffers, and replanting those with  22 appropriate species rather than mowed lawn. So impacts to  23 those will not be adverse.  24 MR. SHAFFER: Okay. And have you studied the  25 stormwater drainage plan that has been provided by the</p>	<p style="text-align: right;">123</p> <p>1 MR. SHAFFER: So in calculating the amount of say,  2 storm water drainage that would affect these wetlands, I'm  3 trying to ask this a different way, did you use or did you  4 not use the conclusions on the volume of water generated by  5 the impermeable surfaces testified to by your previous  6 expert?  7 MR. SLOAN: No.  8 MR. SHAFFER: Did you consider the volume of water  9 to be generated by storm water drainage in any way upon your  10 conclusion that the wetlands would not be adversely affected  11 by the project?  12 MR. SLOAN: Impervious conditions impacting the  13 wetlands. Our general reliance would be on those buffers and  14 meeting the requirement. We did not specifically revise our  15 buffers or our strategy for that wetland area because of the  16 impervious area. These are inline wetlands, which means that  17 they're mostly fed by the stream which is collecting water  18 from east and northeast of our site. They're not isolated  19 wetlands that I would look at more carefully to ensure that  20 we're actually recharging them with our stormwater, but that  21 is one aspect we would definitely look at final forest  22 conservation and our strategy for planting that area.  23 I hope I'm answering your question and I don't  24 know that I can in --  25 MR. SHAFFER: And you're saying that's something</p>
<p style="text-align: right;">122</p> <p>1 Applicant?  2 MR. SLOAN: I did work with our engineers on how  3 the stormwater management plan strategy would work.  4 MR. SHAFFER: Okay. And is your conclusion that  5 the lack of negative effect on the wetlands based upon the  6 stormwater drainage management plan and its conclusion?  7 MR. SLOAN: I'm not certain I understand the  8 question. Would the stormwater management plan adversely  9 impact the wetlands?  10 MR. SHAFFER: Let me rephrase. I'm sorry, let me  11 do better at that. Did you consider in determining your  12 opinion that there would be no negative impact on the  13 wetlands of this project, the stormwater management plan and  14 its conclusions that have been presented here this morning?  15 MR. SLOAN: We're a little early for a final  16 determination on the storm water impacts because we have  17 strategies in place, but we don't have the actual design in  18 place. So I'm -- I would be working with our engineers on  19 that aspect of it in a little more detail in the next phases.  20 I think the strategies that we've proposed are excellent ones  21 for capturing runoff from rooftops and road, filtering that  22 runoff and then allowing it to flow into the natural system  23 at a slower rate with fewer pollutants and with a lower heat  24 than we typically see, which I think is a benefit both the  25 stream and the wetlands.</p>	<p style="text-align: right;">124</p> <p>1 you're going to look at in the future, but haven't looked at  2 yet in forming your expert opinion on the appropriateness of  3 this project?  4 MR. SLOAN: Well, our expert opinion on the  5 appropriateness of the protection of the wetlands is based on  6 state and county regulation of those and instituting the 25  7 foot buffer for the wetlands, but even a more extensive  8 buffer because it's attached to a stream. So the replanting  9 of that area is definitely going to be an improvement and not  10 an adverse impact.  11 MR. SHAFFER: Okay. With regard to your testimony  12 about the secondary entrance and -- which I understand is  13 going to be straight across from the entrance of Stillwater;  14 is that correct?  15 MR. SLOAN: Yes. Yeah, that's --  16 MR. SHAFFER: Okay. Now, that -- you'll have to  17 excuse some of my questions because I'm legally blind so I  18 can't see these plans so I'm trying to envision them in my  19 head.  20 MR. SLOAN: I understand.  21 MR. SHAFFER: So that secondary entrance is going  22 to lead up into what, townhouses; is that correct?  23 MR. SLOAN: The secondary entrance -- could you  24 repeat that please?  25 MR. SHAFFER: Okay. We're talking about the</p>



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<p style="text-align: right;">125</p> <p>1 secondary entrance --</p> <p>2 MR. SLOAN: Yes.</p> <p>3 MR. SHAFFER: That you're putting across from</p> <p>4 Stillwater.</p> <p>5 MR. SLOAN: Yeah.</p> <p>6 MR. SHAFFER: Where does that secondary entrance</p> <p>7 lead to?</p> <p>8 MR. SLOAN: That secondary entrance leads past</p> <p>9 detached units on the -- sorry. Front load townhouse units</p> <p>10 on its west, which would be the right as you're traveling</p> <p>11 south. There is a road, an internal street we call Street B</p> <p>12 that turns to the left running to our central spine road.</p> <p>13 And then, this road continues to the south and will curve</p> <p>14 around and connect to this central street A closer to the</p> <p>15 Academy property.</p> <p>16 MR. SHAFFER: Okay. So how far from this</p> <p>17 intersection that you're going to create would be the</p> <p>18 entrance to the school for parents and others to drop off?</p> <p>19 MR. SLOAN: So --</p> <p>20 MR. SHAFFER: How far --</p> <p>21 MR. SLOAN: -- the secondary road we're calling</p> <p>22 Street C.</p> <p>23 MR. SHAFFER: Okay. Street C is the entrance to</p> <p>24 the Holy Cross School; is that correct?</p> <p>25 MR. SLOAN: No. The entrance to the Holy Cross</p>	<p style="text-align: right;">127</p> <p>1 MR. SLOAN: I don't know if there will.</p> <p>2 MR. SHAFFER: I'm sorry. Well, currently are you</p> <p>3 aware that there is -- to have a cop stationed out there in</p> <p>4 the mornings and the evenings just to handle the flow in and</p> <p>5 out of that school?</p> <p>6 MR. SLOAN: I am not. That's beyond the purview</p> <p>7 of my analysis.</p> <p>8 MR. SHAFFER: Okay. So you didn't consider</p> <p>9 whether or not some sort of traffic control device, whether</p> <p>10 human or mechanical, was needed at the entrance to the</p> <p>11 Academy; is that correct?</p> <p>12 MS. GIRARD: Can I just object and say, I think</p> <p>13 this is a better question for the traffic engineer. Josh</p> <p>14 spoke to the entrances in terms of land planning, but he's</p> <p>15 not qualified to speak to what would trigger the need for a</p> <p>16 signal and all of that.</p> <p>17 MR. SHAFFER: Okay. Well, he did speak to the</p> <p>18 traffic so that's why I was going down this line, but I'm</p> <p>19 happy to defer that question further to the traffic expert.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Okay. That's fine.</p> <p>21 MR. SHAFFER: Let me go back to the secondary</p> <p>22 intersection -- the new intersection you're going to create.</p> <p>23 You mentioned, I believe, that there would be improvements</p> <p>24 made to the bus stops on those corners; is that correct?</p> <p>25 MR. SLOAN: Yes. So what we've done so far is</p>
<p style="text-align: right;">126</p> <p>1 School is from Street A. I mean, you could make -- you could</p> <p>2 be traveling east on Strathmore Avenue, turn right onto our</p> <p>3 secondary road, Street C, which is directly across from</p> <p>4 Stillwater, take that down to the central spine road, make</p> <p>5 another right and you could get to the Academy that way.</p> <p>6 MR. SHAFFER: Okay. So this is basically an</p> <p>7 alternative entrance to the Academy; is that correct?</p> <p>8 MR. SLOAN: It is an alternative to the Academy,</p> <p>9 but primarily seen as access for the residential townhouses</p> <p>10 internal to the site.</p> <p>11 MR. SHAFFER: Okay. And then, with respect to the</p> <p>12 entrance to the Academy. How far eastward from this new</p> <p>13 intersection will that be?</p> <p>14 MR. SLOAN: So the -- I'm doing this from my own</p> <p>15 screen. I have --</p> <p>16 MR. SHAFFER: I'm not asking you to the precise</p> <p>17 foot, just give me an idea.</p> <p>18 MR. SLOAN: Let me make sure that I'm scaling</p> <p>19 correctly. I'm not. So we're approximately from centerline</p> <p>20 of Street C, which is our secondary entrance across from</p> <p>21 Stillwater to the centerline of Street A, which is the</p> <p>22 primary access point, about 350 feet.</p> <p>23 MR. SHAFFER: Okay. Now, will there be any sort</p> <p>24 of traffic control device at Street C, which is the entrance</p> <p>25 to the Academy?</p>	<p style="text-align: right;">128</p> <p>1 with this submission we worked with MCDOT who had some</p> <p>2 initial questions on whether or not a left turn lane would be</p> <p>3 able to be accommodated as you're traveling west onto our</p> <p>4 primary road. We did a sketch design conceptual that's shown</p> <p>5 on the floating zone plan, which will require a shift in the</p> <p>6 curb that's where the current bus stop is and in addition,</p> <p>7 repaving the sidewalk and -- to that bus stop there. So that</p> <p>8 is proposed right now. That's the improvement that I was</p> <p>9 speaking of.</p> <p>10 MR. SHAFFER: Okay. So we are talking about the</p> <p>11 bus -- the 5W bus stop at the corner of Stillwater and</p> <p>12 Strathmore, correct?</p> <p>13 MR. SLOAN: No. I'm sorry. We're -- I thought we</p> <p>14 were talking about the new intersection of Street A with</p> <p>15 Strathmore. There are no proposed changes to the curb line</p> <p>16 or bus stops or any other element of the street at the</p> <p>17 intersection of Stillwater and Strathmore.</p> <p>18 MR. SHAFFER: So you've not considered whether an</p> <p>19 APS should be installed there or whether the bus stop should</p> <p>20 be brought up to ADA standards; is that correct?</p> <p>21 MR. SLOAN: I have not looked at that. We would</p> <p>22 typically do that with our traffic planner and engineer at</p> <p>23 preliminary plan.</p> <p>24 MR. SHAFFER: Okay. But that -- just to</p> <p>25 summarize, that new intersection will be signaled on three-</p>

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<p>129</p> <p>1 way turning, right?</p> <p>2 MR. SLOAN: I don't believe Street C has a</p> <p>3 proposed signal. The proposed signal is at Street A and</p> <p>4 Strathmore.</p> <p>5 MR. SHAFFER: That's -- Street A --</p> <p>6 MR. SLOAN: Is essential.</p> <p>7 MR. SHAFFER: Let me back up. Is there an</p> <p>8 intersection going to be created with a light that goes</p> <p>9 between Stillwater and your new street?</p> <p>10 MR. SLOAN: There is no intersection with a light</p> <p>11 at Stillwater. I hope I'm understanding you correctly, I'm</p> <p>12 sorry if I'm not.</p> <p>13 MR. SHAFFER: Okay. Where is the light then?</p> <p>14 MR. SLOAN: The light is proposed at the</p> <p>15 intersection of Street A with Strathmore Avenue. That's our</p> <p>16 central spine street which is about 350 feet east of</p> <p>17 Stillwater Avenue.</p> <p>18 MR. SHAFFER: And I suppose my next few questions</p> <p>19 are more for the traffic engineer so I will relinquish the</p> <p>20 floor on that for the moment. I pass MS. WAGNER.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Thank you, Mr.</p> <p>22 Shaffer.</p> <p>23 Mr. Burdin, did you have any questions for Mr.</p> <p>24 Sloan?</p> <p>25 MR. BURDIN: Yes, I did. Sticking with the</p>	<p>131</p> <p>1 road, some of that would be taken up for this adding this</p> <p>2 left turn lane; is that right?</p> <p>3 MR. SLOAN: No. It does not look like it. And as</p> <p>4 I noted we're at conceptual design here. We wanted to make</p> <p>5 sure that it was workable within the existing right of way</p> <p>6 and the impact to that area by the bus stop is minimal. It</p> <p>7 does not go into the tree stand or anything there.</p> <p>8 MR. BURDIN: I'm talking about the north side.</p> <p>9 MR. SLOAN: Correct.</p> <p>10 MR. BURDIN: Of Strathmore. That's what you're</p> <p>11 talking about also?</p> <p>12 MR. SLOAN: It is.</p> <p>13 MR. BURDIN: So just to be clear, there's going to</p> <p>14 be no impact to that area or there's going to be a potential</p> <p>15 that what is now either shoulder or grass is going to</p> <p>16 replaced with a lane?</p> <p>17 MR. SLOAN: I don't know if there's a way to get</p> <p>18 close in on the floating zone plan because there is a couple</p> <p>19 of feet of impact on that north side from the existing</p> <p>20 paving. If we can zoom in --</p> <p>21 HEARING EXAMINER BAUMGARDNER: I'm pulling up</p> <p>22 Exhibit 40, which is the floating zone plan. I'm zooming as</p> <p>23 much as I can with the resolution that is available here.</p> <p>24 MR. SLOAN: So there is -- our current concept is</p> <p>25 that the -- we hold the paving on the south side, which is a</p>
<p>130</p> <p>1 traffic light and left turn lane and focusing on the left</p> <p>2 turn lane, that would require making Strathmore wider at that</p> <p>3 point where the left turn lane is, correct?</p> <p>4 MR. SLOAN: Yes, I think we need about a foot to</p> <p>5 two of increased pavement at that point.</p> <p>6 MR. BURDIN: Would you then be losing the</p> <p>7 shoulder? How can you add a lane with a foot or two?</p> <p>8 MR. SLOAN: Because there's significant paving out</p> <p>9 there right now. I don't know what the best thing to bring</p> <p>10 up here is. I think it would be good if we could see an</p> <p>11 aerial view or something. There's a large shoulder on the</p> <p>12 south side of Strathmore Avenue. Then, there is a</p> <p>13 significant amount of paving and then most of the north side</p> <p>14 is -- would not be impacted at all. I'm trying to think of</p> <p>15 what's the best way to visualize this so we could bring it up</p> <p>16 and describe it for everyone.</p> <p>17 MR. BURDIN: I guess, maybe, to get to my point is</p> <p>18 to ask you whether, whatever widening of Strathmore you need</p> <p>19 to do to put in a -- your 50 or 150 foot left turn lane would</p> <p>20 that widening only occur on the site project property?</p> <p>21 MR. SLOAN: No. It would all occur within the</p> <p>22 established right-of-way. And that impacts a little bit to</p> <p>23 the north as well as the -- to the south.</p> <p>24 MR. BURDIN: So that the green buffer that was</p> <p>25 discussed before between Strathmore and the Strathmore access</p>	<p>132</p> <p>1 large shoulder most of it, right now. That will be the</p> <p>2 through lane going eastbound. The turn lane will then be</p> <p>3 almost directly centered on the existing paving that turns</p> <p>4 left. And then, the through lane westbound will be on the</p> <p>5 north side of the property -- or the north side of the road</p> <p>6 and there will be, it looks like, about two to three feet of</p> <p>7 shift in that paving edge to the north, along the queuing</p> <p>8 distance for that left lane. And then, also at the bus stop</p> <p>9 itself and then just to the west of the bus stop we tie back</p> <p>10 into the existing paving.</p> <p>11 MR. BURDIN: Okay. I'm not sure -- people that</p> <p>12 live on that access road were aware that some of that buffer</p> <p>13 zone would be lost to this addition of lane. So thank you</p> <p>14 for clarifying that.</p> <p>15 Are you familiar with the potential path from the</p> <p>16 project's west side, the footpath proposed on the project's</p> <p>17 west side across the stream to connect with the Symphony Park</p> <p>18 path that eventually goes to the Grosvenor Metro?</p> <p>19 MR. SLOAN: Yes. I worked on some conceptual</p> <p>20 ideas for how that might work, early on.</p> <p>21 MR. SLOAN: Okay. And I think you describe the</p> <p>22 area where that path would be as either most forested or</p> <p>23 heavily forested and that there are steep slopes there; is</p> <p>24 that correct?</p> <p>25 MR. SLOAN: Not precisely. The west property in</p>

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<p style="text-align: right;">133</p> <p>1 and the tributary that runs down there in general terms that  2 is the area where the site is most forested and where there  3 are some steep slopes and flood plains. Where we  4 specifically cross if we were allowed that connection would  5 not be an area that is forested. Tree cover (inaudible) two  6 different things.  7 MR. BURDIN: Okay. Where would it, starting from  8 the north -- from Strathmore going south either on your path,  9 your proposed path or the Symphony Park path, how far down  10 toward the music center would, you know, approximately, would  11 that cross path be proposed?  12 MR. SLOAN: That I don't know. I think Mr. Lester  13 was correct. That is the kind of thing that we walk in the  14 field and flag. There are a couple of specimen trees, those  15 large diameter trees that I mentioned earlier, you know,  16 roughly 50, 60 feet south of the road. We would want to  17 avoid those. There's an area where the stream is constricted  18 and it's -- the width of its bank and the contours seem most  19 appropriate for some kind of crossing, maybe another 50 feet  20 beyond that.  21 If we were given permission and we got the right  22 approvals, this would require significant approvals from the  23 state and probably federal because of Army Corps  24 requirements, it might go somewhere in there. That looked  25 most appropriate with the fewest environmental impacts. But</p>	<p style="text-align: right;">135</p> <p>1 most. My wife and I walk a lot of cities a lot of weekends.  2 And it took me about 7 to 8 minutes. We're members of the  3 SOs, we go down there a lot and I like to walk around.  4 MR. BURDIN: That's very rapid. Did you walk to  5 the Garrett Park MART station?  6 MR. SLOAN: No, I have not.  7 MR. BURDIN: Okay. And when you walked to the  8 Metro did you start at Strathmore, somewhere in the center of  9 the site along Strathmore or did you ever walk from the back  10 of the site?  11 MR. SLOAN: No I -- we actually walk -- we take  12 the metro down and then walk from the platform, across the  13 bridge, and then the trail that's in the back along the  14 stormwater pond to Strathmore Avenue.  15 MR. BURDIN: Okay. You mentioned the path for  16 pedestrians and bikes along Strathmore that's being proposed.  17 That would end at the east end of the property, correct?  18 MR. SLOAN: The east end of the property. Yes.  19 We would tie in where the sidewalk goes across the existing  20 bridge.  21 MR. BURDIN: Okay. But going east it would end at  22 your property?  23 MR. SLOAN: Well, right now we're working with our  24 neighbor and the floating zone plan shows this just to the  25 east of our property. We do have a conceptual design of a</p>
<p style="text-align: right;">134</p> <p>1 you know, not having permission we took it off the table for  2 now and I guess we'll -- the Applicant will catch up with the  3 homeowners association and see if it's viable in the future.  4 MR. BURDIN: Okay. And it would affect your  5 forest buffers and conservation easements; is that correct?  6 It would have to cross them?  7 MR. SLOAN: The buffers are established. So the  8 buffers are set just by rule. What happens in those would be  9 an element that would play into the conservation easement,  10 and that conservation easement can have terms that allow, for  11 example, natural surface trails or could allow the crossing.  12 So we would want that as part of our forest conservation plan  13 if we could do it.  14 MR. BURDIN: Okay. So would it be fair to say  15 that installing this path and getting all the approvals would  16 not be a simple matter? It would be somewhat involved; am I  17 hearing you correctly?  18 MR. SLOAN: That is fair to say.  19 MR. BURDIN: Okay. All right. Thank you.  20 I think you mentioned that you've walked from the  21 project site to Metro, the Grosvenor Metro?  22 MR. SLOAN: Correct.  23 MR. BURDIN: Did you note how long it took you to  24 walk?  25 MR. SLOAN: Yes, but I tend to be faster than</p>	<p style="text-align: right;">136</p> <p>1 shared use path that would get us to the next bus stop to our  2 east so there have been a lot of improvements there lately  3 and we don't want to disturb recently put in constructed  4 drainage facilities, and we don't want to disrupt -- there's  5 play equipment even further down and some fencing. So we're  6 looking at that, but we may be able to tie in our shared use  7 path a little further to our east and directly at our  8 frontage point.  9 MR. BURDIN: And what you're looking at, would  10 that continue past the bus stop on Strathmore's south side  11 and hook up with the sidewalk in Garret Park near Kenilworth?  12 MR. SLOAN: I don't think we've looked that far  13 down yet, except very conceptually. It's not something  14 certainly committed to on the floating zone plan that's in  15 front of us. I think that we only went to the next drive.  16 MR. BURDIN: Okay. And as far as you know,  17 there's nothing in place with the Holy Cross Parish and  18 school that would allow you to put in this extension of the  19 path?  20 MR. SLOAN: There's not, no.  21 MR. BURDIN: So if that extension doesn't happen  22 your path ends at the eastern end of your property, there's  23 no crosswalk at that point across Strathmore for pedestrians  24 or bikes to use to get to the Strathmore access road; is that  25 correct?</p>

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<p style="text-align: right;">137</p> <p>1 MR. SLOAN: That is correct.</p> <p>2 MR. BURDIN: Okay. So unless it's extended it</p> <p>3 wouldn't be much of a benefit to your residents unless they</p> <p>4 wanted to walk up and turn around and walk back; do you</p> <p>5 agree, is that fair to say?</p> <p>6 MR. SLOAN: No. I think the use would allow --</p> <p>7 you mean going east?</p> <p>8 MR. BURDIN: Going east and assuming that</p> <p>9 extension does not occur since there's no crosswalk there</p> <p>10 across Strathmore, that path, at least going east would be of</p> <p>11 limited benefit?</p> <p>12 MR. SLOAN: I think that's fair to say.</p> <p>13 MR. BURDIN: Okay. Thank you.</p> <p>14 You mentioned that the master plan promotes or</p> <p>15 encourages housing near transit; is that correct?</p> <p>16 MR. SLOAN: That is.</p> <p>17 MR. BURDIN: Okay. Are you aware that the LATR</p> <p>18 traffic study concluded that the use of transit by the</p> <p>19 project would be minimal?</p> <p>20 MR. SLOAN: I think I'm going to let the traffic</p> <p>21 engineer and planner speak to that.</p> <p>22 MR. BURDIN: Are you aware that they said that?</p> <p>23 That the report said that?</p> <p>24 MR. SLOAN: I don't think that's the -- no. I</p> <p>25 think they're --</p>	<p style="text-align: right;">139</p> <p>1 about what the traffic study says, that's fine. But Josh is</p> <p>2 here to talk about compliance with the master plan.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Sustained.</p> <p>4 MR. BURDIN: I'm -- the intergenerational area at</p> <p>5 the hub that you discussed, would there be playground</p> <p>6 equipment there for children, proposed?</p> <p>7 MR. SLOAN: I don't know. I don't know yet,</p> <p>8 honestly. We're really looking at trying to be -- come up</p> <p>9 with some innovative ideas that will engage multiple people</p> <p>10 of different ages and we have not come down on any specific</p> <p>11 solution yet.</p> <p>12 MR. BURDIN: And do you know of any research or</p> <p>13 data that suggest that high school students would use that --</p> <p>14 at Holy Cross, which is essentially a commuter school, would</p> <p>15 use this area?</p> <p>16 MR. SLOAN: No, I have not looked at that.</p> <p>17 MR. BURDIN: And assuming that there is no</p> <p>18 playground equipment, same question. Would parents with</p> <p>19 small children be likely to use that area without playground</p> <p>20 equipment?</p> <p>21 MR. SLOAN: Quite often we actually use more what</p> <p>22 we call nature based kind of and resource based activity</p> <p>23 areas where we're not specifically providing a swing set or a</p> <p>24 jungle gym, but we're providing elements along trails and</p> <p>25 around open spaces that are -- bring out more imagination and</p>
<p style="text-align: right;">138</p> <p>1 MR. BURDIN: Are you not aware?</p> <p>2 MR. SLOAN: I -- no, I'm -- I don't think that's</p> <p>3 the way to characterize it. But I'll let them speak to that.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Sorry. I will</p> <p>5 interrupt and I'll say that the -- whatever the report says</p> <p>6 will speak to itself. I don't think we need Mr. Sloan's</p> <p>7 opinion of what that report might conclude at this point.</p> <p>8 But we can certainly --</p> <p>9 MR. BURDIN: Well --</p> <p>10 HEARING EXAMINER BAUMGARDNER: -- ask those</p> <p>11 questions of the traffic expert.</p> <p>12 MR. BURDIN: Okay. But he did opine that one of</p> <p>13 the ways that this proposed project is consistent with the</p> <p>14 master plan is that the project is near transit. So I was</p> <p>15 asking him if he is aware that the traffic plan said that</p> <p>16 that use would be minimal.</p> <p>17 MR. SLOAN: The analysis of the traffic study and</p> <p>18 whether or not land uses are appropriate given the multi-</p> <p>19 modal availability are two different things. And I can speak</p> <p>20 to the latter but not the former.</p> <p>21 MR. BURDIN: Okay. Well, if it's near transit and</p> <p>22 nobody's using that transits or the use is minimal it at</p> <p>23 least --</p> <p>24 MS. GIRARD: Objection. We've gone over this a</p> <p>25 number of times. If he wants to ask the traffic engineer</p>	<p style="text-align: right;">140</p> <p>1 creativity. And in kids we like to make sure that they have</p> <p>2 the ability to do very many -- a number of different things,</p> <p>3 jumping, balancing, running those kind of things. So when we</p> <p>4 get into the design of recreation areas that's what we look</p> <p>5 at and we do see a lot of engagement with those more artistic</p> <p>6 and unique kind of environments than the typical playground.</p> <p>7 Although playgrounds are also used and we have several close</p> <p>8 by here.</p> <p>9 MR. BURDIN: Okay. Thank you. That's all I have.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Okay. Thank you,</p> <p>11 Mr. Burdin. We have several hands that are virtually raised.</p> <p>12 We'll start with Ms. Weitz's. Did you have a question,</p> <p>13 ma'am?</p> <p>14 MS. WEITZ: Yes, I do. I have question, Mr.</p> <p>15 Sloan, you described and we saw on your map the natural</p> <p>16 surface trail that's going to be built. And I have a</p> <p>17 question, would you please define for me what a natural</p> <p>18 surface trail means?</p> <p>19 MR. SLOAN: Yes. So these are typically compacted</p> <p>20 subgrade, which is just a fancy word for dirt. And then wood</p> <p>21 chips are maintained over those so that they remain pervious</p> <p>22 and we do some grading to make it a little bit flatter, but</p> <p>23 not much.</p> <p>24 MS. WEITZ: So then, that trail will not be ADA</p> <p>25 compliant?</p>

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<p style="text-align: right;">141</p> <p>1 MR. SLOAN: It's a curious question, because there</p> <p>2 is -- not everything -- you don't have to be paved to be ADA</p> <p>3 complaint, but I am not an ADA expert and would have to ask</p> <p>4 someone else to answer that.</p> <p>5 MS. WEITZ: Well, I'm reading now from</p> <p>6 AmericanTrails.org and they say that trails that comply with</p> <p>7 accessibilities --</p> <p>8 HEARING EXAMINER BAUMGARDNER: Ma'am, Ms. Weitz.</p> <p>9 MS. WEITZ: Yes?</p> <p>10 HEARING EXAMINER BAUMGARDNER: I'm sorry, but this</p> <p>11 is the time for questions only so we can't have you reading</p> <p>12 documents.</p> <p>13 MS. WEITZ: Okay. So then, a wood-chipped trail</p> <p>14 would make it very difficult for a family member who wishes</p> <p>15 to walk with a Brandywine resident and enjoy the open space.</p> <p>16 There are hawks, there are bald eagles that have been</p> <p>17 observed back in that area, if you have a mother or a loved</p> <p>18 one with a walker or wheelchair that mulched, or I had a</p> <p>19 sister-in-law with macular degeneration, that mulched surface</p> <p>20 area would not be easily accessible to those people; would</p> <p>21 you agree?</p> <p>22 MR. SLOAN: I think that's fair.</p> <p>23 MS. WEITZ: So would it be possible, or would you</p> <p>24 consider making this trail accessible to all the residents,</p> <p>25 both to the Brandywine but also to residents of Garrett Park</p>	<p style="text-align: right;">143</p> <p>1 will it be open? Will the community across -- north of</p> <p>2 Strathmore, are we going to be allowed to access this trail?</p> <p>3 MR. SLOAN: There are no gates proposed. And so</p> <p>4 it is directly connected to the sidewalk system. I don't</p> <p>5 know if you would count that as open. It's not going to have</p> <p>6 a sign that says for public use but it won't say not to, as</p> <p>7 far as I know right now.</p> <p>8 MS. WEITZ: Okay. But it will be really</p> <p>9 accessible to those who are able bodied only?</p> <p>10 MR. SLOAN: Yes, right now, it's wood chip mulch.</p> <p>11 MS. WEITZ: Okay. Thank you.</p> <p>12 HEARING EXAMINER BAUMGARDNER: Ms. Lide, did you</p> <p>13 have a question? I cannot recall if you are a member of the</p> <p>14 association or if you're testifying -- or if you're asking a</p> <p>15 question for yourself. What was your --</p> <p>16 MS. LIDE: I'd like to just ask a clarification on</p> <p>17 this curb, tweaking the curb and losing one or two feet.</p> <p>18 Just to clarify, can you explain, is there now no shoulder</p> <p>19 area on the north side of Strathmore?</p> <p>20 MR. SLOAN: So there is about three feet, I think,</p> <p>21 of paving between the solid white line and the edge of the</p> <p>22 pavement. And then, there is some grass area and then there</p> <p>23 are utility poles and then there are some plantings. So that</p> <p>24 area would be where we would be pushing say two, three feet.</p> <p>25 MS. LIDE: Okay. But does that pushing two or</p>
<p style="text-align: right;">142</p> <p>1 Estates, to residents at Strathmore Place and Symphony Park</p> <p>2 who might have accessibility issues?</p> <p>3 In addition, I don't know if you've ever tried to</p> <p>4 push a stroller, but I have seven grandchildren, if you've</p> <p>5 ever tried to push a stroller for a long distance over a</p> <p>6 mulched trail it can be very tiring, particularly if you're</p> <p>7 the grandmother. Would you consider making that more</p> <p>8 accessible to the community?</p> <p>9 MR. SLOAN: Well, I think it's a very good</p> <p>10 question. Because it's in an environmental buffer park and</p> <p>11 planning typically simply doesn't allow those to be paved.</p> <p>12 But it's worth raising that question with them again and see</p> <p>13 if there's any flexibility, but right now, this is the</p> <p>14 direction we've been given.</p> <p>15 MS. WEITZ: I understand that there are permeable</p> <p>16 surfaces, natural surfaces and I am not either a civil</p> <p>17 engineer, but I have walked on them that allow water -- they</p> <p>18 are permeable, but they are also accessible.</p> <p>19 MR. SLOAN: You're right. There are and thus far</p> <p>20 we have not been granted permission to use those in</p> <p>21 environmental areas without some kind of exception to the</p> <p>22 environmental guidelines, so I have not used them on a</p> <p>23 project in this kind of situation. But it's a good question</p> <p>24 for park and planning.</p> <p>25 MS. WEITZ: Okay. So then, this surface trail,</p>	<p style="text-align: right;">144</p> <p>1 three feet leave -- still leave a shoulder on the north side</p> <p>2 of Strathmore?</p> <p>3 MR. SLOAN: No, it does not.</p> <p>4 MS. LIDE: So there's no shoulder? Okay. Just</p> <p>5 want to point out that that shoulder currently is used quite</p> <p>6 frequently because the Kensington Fire Department goes along</p> <p>7 Strathmore Avenue and when traffic is backed up I have some</p> <p>8 photos and like to share later in my testimony, that's how</p> <p>9 cars pull over to let emergency vehicles through.</p> <p>10 And then, the other question I have is why, if you</p> <p>11 need that extra space that encroaches on the buffer zone, why</p> <p>12 can't you take it from the south side?</p> <p>13 MR. SLOAN: We are taking space for the lane on</p> <p>14 the south side, but we also need to align with our horizontal</p> <p>15 curvature and that your road alignment west of where we will</p> <p>16 have the signal and used. So we don't want to have a big dip</p> <p>17 in the road that moves the centerline significantly from</p> <p>18 where it is now. So we're more or less splitting the</p> <p>19 difference in that northern lane to accommodate it. That's</p> <p>20 the general reason.</p> <p>21 MS. LIDE: Okay. But it also leaves me,</p> <p>22 personally, very confused because in our conversations with</p> <p>23 EYA and in our conversations with members of Montgomery</p> <p>24 County planning department we've been assured that there is</p> <p>25 no -- any changes are on the south side. That there would be</p>

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<p style="text-align: right;">145</p> <p>1 no encroachment on the green buffer zone. And yet today, we 2 just learned something different. 3 MR. SLOAN: Well, whether -- is the green buffer 4 zone from paving to paving regardless If its lawn or 5 plantings or trees? Because where avoiding the plantings, 6 and I know there's definitely some brush and low growing 7 things just east of the bus stop. But there are no trees or 8 anything that would be -- 9 MS. LIDE: There is a tree there, yeah. It's 10 right in front of my house. I mean I'm not sure what the 11 definition of brush, but these are 15 foot high trees that 12 screen houses from the road noise and pollution. 13 MR. SLOAN: If EYA and Brandywine allow me, would 14 be happy to go out and walked beside and look at where 15 those -- or potentially the impacts are and see what we can 16 do to -- if a foot makes a difference then we could try to 17 work on that. But we are getting into, we hope, that level 18 of design soon. And I would be happy to look at that with 19 you. Because I don't see where we would be requiring the 20 removal of any trees right now with the shift of that I am 21 talking about. 22 MS. LIDE: Right, but you are essentially shifting 23 the road traffic one, two, three, feet closer to our homes. 24 That's what it sounds like to me. And that runs counter to 25 what we have been assured at several points by several</p>	<p style="text-align: right;">147</p> <p>1 MS. BENNETT: Yeah, it's quite low, isn't it? 2 MR. SLOAN: I didn't think to have that 3 information right in front of me so it's going to take me a 4 second. 5 MS. BENNETT: Because where it is, it sits at the 6 top of a hill. So with a 50 foot building at the top of the 7 hill that's going to be quite tall, block the view of the 8 church, which is a beautiful building, as you drive up that 9 hill. 10 Also, are there any existing commercial buildings 11 that are that close to Strathmore Avenue of that height and 12 massing? And are the guidelines for height and massing, do 13 they have anything to do with the relative distance to the 14 street? Because to me a building that's right up against, as 15 this one is proposed to be, Strathmore Avenue that is 50 feet 16 tall is going to appear much bigger to people on the street, 17 either pedestrians or drivers than the current ones which are 18 all set very far back from Strathmore Avenue. So I'm 19 wondering if there are any guidelines about what constitutes 20 consistent height and massing. 21 HEARING EXAMINER BAUMGARDNER: Ms. Girard, do you 22 have an architect who will be testifying? 23 MS. GIRARD: That's exactly what we had Jack 24 McLaurin on standby for. So we can certainly have him 25 address some of these issues.</p>
<p style="text-align: right;">146</p> <p>1 people; would you agree there's some disconnect here? 2 MR. SLOAN: I guess there was, Yes. 3 MS. LIDE: Okay. Thank you. 4 HEARING EXAMINER BAUMGARDNER: And last, 5 Councilwoman Bennett, did you have a question? 6 MS. BENNETT: yes, thank you. Mr. Sloan, you 7 mentioned several times that the development is consistent in 8 height and massing to other buildings in the area. Could you 9 give the specific differences between, in particular, the 10 care facility height, which looks to be approximately 50 feet 11 tall with the Holy Cross Church, Garrett Park Elementary 12 school, other existing buildings? Oh, and also, St. Angela 13 Hall. Like, what is the actual difference? 14 MR. SLOAN: I don't have the specific differences. 15 I don't have that height different. 16 MS. BENNETT: Well, what's the criteria then for 17 being consistent with height and massing? 18 MR. SLOAN: So I'm looking at the overall 19 footprints of the buildings for the massing of that. On 20 site, its footprint that it takes up over the site, and in 21 the rooflines that are 3 to 4 stories, depending on where you 22 look on the buildings around us. I did not measure the 23 specific types. 24 MS. BENNETT: How many stories is St. Angela Hall? 25 MR. SLOAN: The existing building?</p>	<p style="text-align: right;">148</p> <p>1 HEARING EXAMINER BAUMGARDNER: Would that be okay? 2 MS. BENNETT: Yeah, that would be great. Thank 3 you. 4 HEARING EXAMINER BAUMGARDNER: Okay. Great. 5 Yeah, the land planning certainly includes structural 6 elements to a plan, but if there's an architect that will be 7 better able to answer those types of specific questions that 8 might be a better witness. I don't want to take your show, 9 Mr. Sloan, but -- 10 MR. SLOAN: No, I know my boundaries. 11 HEARING EXAMINER BAUMGARDNER: Yeah. Typically 12 those questions would be better answered by the architect 13 that will be in charge of constructing buildings. 14 MS. BENNETT: Thank you. 15 HEARING EXAMINER BAUMGARDNER: Thank you. 16 Ms. Girard, any redirect of Mr. Sloan? 17 MS. GIRARD: Yes, just a couple of questions. 18 Well, one, just building on what was just being 19 asked, is a residential care facility considered commercial 20 or residential under the zoning ordinance? 21 MR. SLOAN: Sorry, I was writing a note down. 22 Could you run that by me one more time? 23 MS. GIRARD: It was just represented, I believe, 24 unless I misunderstood that a residential care facility is 25 commercial. And under the zoning ordinance is it considered</p>

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<p>149</p> <p>1 commercial or residential?</p> <p>2 MR. SLOAN: It's a residential use.</p> <p>3 MS. GIRARD: With regard to the sidewalk and its</p> <p>4 potential connection or not connection to the east, how does</p> <p>5 park and planning typically look at a sidewalk to nowhere or</p> <p>6 a bike path to nowhere? Does it matter that it doesn't</p> <p>7 connect in the present?</p> <p>8 MR. SLOAN: It does not. Just like way back when</p> <p>9 I was looking at Symphony Park on staff, we require frontage</p> <p>10 improvements to the standard regardless of whether or not</p> <p>11 they connect to east or west, so that at least they can</p> <p>12 happen over time.</p> <p>13 MS. GIRARD: With regard to the trail, and whether</p> <p>14 or not it will be accessible, if there were people that</p> <p>15 wanted to push a stroller or take their mother or father for</p> <p>16 a walk out of the Brandywine project, are there other places</p> <p>17 where they would be able to walk throughout the community</p> <p>18 that are accessible?</p> <p>19 MR. SLOAN: We have at least two other circulation</p> <p>20 routes that they would be able to walk through the community</p> <p>21 on different streets.</p> <p>22 MS. GIRARD: And while we'll probably be speaking</p> <p>23 to Jack more about the architectural issue, I think grading</p> <p>24 is more in yours and maybe Jeff's as well, but there was</p> <p>25 mention for the existing hill that St. Angela Hall sits on</p>	<p>151</p> <p>1 that's our initial take on it. We don't have a schematic</p> <p>2 design of the building yet beyond conceptual renderings. But</p> <p>3 I think you can -- yeah.</p> <p>4 MS. GIRARD: Okay. So it's fair to say that</p> <p>5 efforts have been taken to reduce the appearing of massing</p> <p>6 along Strathmore for that building?</p> <p>7 MR. SLOAN: Certainly. And Jack or someone else</p> <p>8 can speak to this. Both in the siting of the building, the</p> <p>9 terracing of the building and also in the rooflines given to</p> <p>10 the building with pitched roofs, slow down and what not.</p> <p>11 MS. GIRARD: And then with -- I'm sorry to jump</p> <p>12 around, but back to with regard to the natural trail. Are</p> <p>13 you aware that the Applicant as part of their application</p> <p>14 proffered as a binding element that it would be subject to an</p> <p>15 easement to make it available to the public?</p> <p>16 MR. SLOAN: I had forgotten that. That's right,</p> <p>17 yes.</p> <p>18 MS. GIRARD: Okay. That's all I had for Mr.</p> <p>19 Sloan.</p> <p>20 HEARING EXAMINER BAUMGARDNER: All right.</p> <p>21 MR. SHAFFER: Excuse me. This is David Shaffer,</p> <p>22 could I recross on that last point?</p> <p>23 HEARING EXAMINER BAUMGARDNER: Yes.</p> <p>24 MR. SHAFFER: Are you aware of other permeable</p> <p>25 means of making trails accessible to people in wheelchairs or</p>
<p>150</p> <p>1 top of. Will the Brandywine project be built on that hill?</p> <p>2 Or will there be regrading that's done and perhaps the</p> <p>3 renderings would be a good thing to refer to on that?</p> <p>4 MR. SLOAN: It could be. There is definitely</p> <p>5 going to be regrading. And it's also partially built into</p> <p>6 the hill because of the slope, we can take advantage of to</p> <p>7 hide parking below the -- perfect.</p> <p>8 HEARING EXAMINER BAUMGARDNER: I'm pulling up</p> <p>9 what's been marked Exhibit 35, grading and utility.</p> <p>10 MS. GIRARD: Does that help, Josh?</p> <p>11 MR. SLOAN: Yes. So the grading and utility plan</p> <p>12 does show some initial ideas about this would sit on the</p> <p>13 slope and the building will be up, but not as high as the</p> <p>14 current situation because of the slope of the road and the</p> <p>15 need for utility easements and things along the road.</p> <p>16 So we're actually going to be building the -- the</p> <p>17 slab of the building will actually be built into the grade</p> <p>18 and then it will step up. The grade steps up around it until</p> <p>19 it gets to Strathmore Avenue. So its highest point is</p> <p>20 actually going to be at its -- the highest point measured</p> <p>21 from grade will actually be at its far south end. That's</p> <p>22 where it will -- where it has the least impact on visibility.</p> <p>23 And then we're into the hill a story at least on the north</p> <p>24 side.</p> <p>25 Yeah, you can't zoom in as close as I can. So</p>	<p>152</p> <p>1 using assistive devices?</p> <p>2 MR. SLOAN: I am, yes.</p> <p>3 MR. SHAFFER: Can you give some them, list some of</p> <p>4 them for me?</p> <p>5 MR. SLOAN: So we've used several. We've used</p> <p>6 both pervious concrete, pervious asphalt, pervious paver</p> <p>7 systems. Those are all systems that are built over a gravel</p> <p>8 bed that can absorb water. They do require maintenance,</p> <p>9 vacuuming or something quite often.</p> <p>10 We've also used gravel type stone dust, decomposed</p> <p>11 granite systems with binders that set the material. We've</p> <p>12 used all of those. We simply haven't, in my experience,</p> <p>13 gotten them approved in environmental buffer areas for</p> <p>14 private development from park and planning yet.</p> <p>15 MR. SHAFFER: Well, let me give you example. I</p> <p>16 happen to have worked with the National Park Service on</p> <p>17 designing accessible trails at the National Park in Anacostia</p> <p>18 which go through wetlands and the water (indiscernible)</p> <p>19 #(03:56:46). And they used compressed pea gravel there,</p> <p>20 which they felt was compatible with the nature of the area as</p> <p>21 well as fully accessible to people in wheelchairs if it's</p> <p>22 simply pounded down every year or so to make it firm, but</p> <p>23 otherwise permeable. Would that be an alternative that you</p> <p>24 could use here?</p> <p>25 MR. SLOAN: If park and planning allowed it we</p>

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<p style="text-align: right;">153</p> <p>1 can --</p> <p>2 MR. SHAFFER: Well, I was referring to the Park</p> <p>3 Service.</p> <p>4 MR. SLOAN: -- (inaudible).</p> <p>5 MR. SHAFFER: They allowed it. But you don't know</p> <p>6 whether the Montgomery County Park and planning would allow</p> <p>7 it or not; is that right?</p> <p>8 MR. SLOAN: I don't. I have not been able to get</p> <p>9 them approved so far, no.</p> <p>10 MR. SHAFFER: Okay. Thank you.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Great. Thank you</p> <p>12 everyone. Thank you Mr. Sloan.</p> <p>13 Let's move on to the Applicant's next witness.</p> <p>14 MS. GIRARD: Okay. Here's the moment everyone's</p> <p>15 been waiting for. I would like to call Katy Wagner.</p> <p>16 MS. WAGNER: Hi.</p> <p>17 HEARING EXAMINER BAUMGARDNER: Hello, Ms. Wagner,</p> <p>18 can you please give us your full name, your business address</p> <p>19 and a good business email address for you, please?</p> <p>20 MS. WAGNER: Yes. My name is Katherine Lee</p> <p>21 Wagner. I am a transportation engineer at Gorove/Slade, 1140</p> <p>22 Connecticut Avenue, Suite 600, Washington, DC 2006. And my</p> <p>23 email address is KLW@GoroveSlade.com</p> <p>24 HEARING EXAMINER BAUMGARDNER: And Ms. Wagner, can</p> <p>25 you please raise your right hand?</p>	<p style="text-align: right;">155</p> <p>1 expertise in the field of transportation engineering?</p> <p>2 Seeing or hearing none -- yes?</p> <p>3 MR. BURDIN: Oh, I was going to say -- I was</p> <p>4 waiting for Mr. Shaffer. I don't have any. This is Doug</p> <p>5 Burdin.</p> <p>6 HEARING EXAMINER BAUMGARDNER: Okay. Thank you</p> <p>7 very much.</p> <p>8 Ms. Wagner has been admitted as an expert in this</p> <p>9 field before me and before other Hearing Examiners within</p> <p>10 OZHA in the past. Hearing no objections she is admitted for</p> <p>11 the purpose of this hearing as an expert in the field for</p> <p>12 transportation engineering.</p> <p>13 MS. GIRARD: Thank you.</p> <p>14 Ms. Wagner, are you familiar with the property</p> <p>15 that's the subject of a local map amendment application, LMA</p> <p>16 143 and the surrounding area?</p> <p>17 MS. WAGNER: Yes, I am.</p> <p>18 MS. GIRARD: And are you familiar with the</p> <p>19 County's adequate public facilities ordinance, recently</p> <p>20 adopted growth and infrastructure policy, and the local area</p> <p>21 transportation and review guidelines for development?</p> <p>22 MS. WAGNER: Yes, I am familiar with both those</p> <p>23 documents. I would like to mention at this time, that we</p> <p>24 scoped our traffic study, our LATR traffic study with</p> <p>25 Montgomery County Park and planning, Montgomery County</p>
<p style="text-align: right;">154</p> <p>1 Do you swear or affirm under the penalties of</p> <p>2 perjury that the testimony you're about to give is the truth,</p> <p>3 the whole truth?</p> <p>4 MS. WAGNER: Yes.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Ms. Girard, MS.</p> <p>6 WAGNER is yours.</p> <p>7 MS. GIRARD: Thank you.</p> <p>8 Ms. Wagner, what's your occupation?</p> <p>9 MS. WAGNER: I am a transportation engineer.</p> <p>10 MS. GIRARD: And what's your professional and</p> <p>11 educational background?</p> <p>12 MS. WAGNER: I received my bachelor of science in</p> <p>13 civil engineering from Gonzaga University, and I have been</p> <p>14 working in the transportation engineering field for over 12</p> <p>15 years now.</p> <p>16 MS. GIRARD: And have you previously been admitted</p> <p>17 as an expert in front of the Hearing Examiner?</p> <p>18 MS. WAGNER: Yes, I have multiple times, French</p> <p>19 International School, Landon School, as well as an assisted</p> <p>20 living facility on Liberty Mill Road.</p> <p>21 MS. GIRARD: So I would note that Ms. Wagner's</p> <p>22 resume is Exhibit 49-D in the record, and we move for her</p> <p>23 admission as an expert in transportation engineering.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, and</p> <p>25 Mr. Burdin any further voir dire questions about Ms. Wagner's</p>	<p style="text-align: right;">156</p> <p>1 Department of Transportation and the State Highway</p> <p>2 Administration staff in the fall of 2020 while the site was</p> <p>3 still governed by the North Bethesda policy area and</p> <p>4 therefore subject to the SSP and 2017 LATR traffic study</p> <p>5 requirements where the site was reviewed as an orange policy</p> <p>6 area.</p> <p>7 The policy area for the site changed to a red</p> <p>8 policy area, the Grosvenor policy area that was approve as</p> <p>9 part of the Montgomery County's 2020, 2024 growth and</p> <p>10 infrastructure policy when that went into effect January 1,</p> <p>11 2021.</p> <p>12 This -- under the new Grosvenor policy area</p> <p>13 designation the -- it's important to note that the project</p> <p>14 would not be subject to a vehicular capacity traffic analysis</p> <p>15 per the new LATR guidelines that have since been adopted.</p> <p>16 MS. GIRARD: And when you say SSP, can you just</p> <p>17 define what you're referring to?</p> <p>18 MS. WAGNER: Subdivision staging policy.</p> <p>19 MS. GIRARD: Thank you. And have you analyzed the</p> <p>20 suitability of the propped development of the subject</p> <p>21 property from a transportation engineering standpoint?</p> <p>22 MS. WAGNER: Yes. I have conducted the traffic</p> <p>23 analysis as well as I live near the subject property and I</p> <p>24 drive and run past the site frequently.</p> <p>25 MS. GIRARD: Can you review for us the findings</p>



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<p style="text-align: right;">157</p> <p>1 and conclusions of your initial transportation analysis that</p> <p>2 was completed in accordance with the parking planning</p> <p>3 guidelines?</p> <p>4 MS. WAGNER: Yes. As I mentioned before, we</p> <p>5 scoped a traffic study with staff in the fall of 2020. We</p> <p>6 recognize that this was when the pandemic was going on, as it</p> <p>7 still currently is, but we submitted the LATR for the</p> <p>8 proposed development of the site located at 4910 and 4920</p> <p>9 Strathmore Ave. in Montgomery County on December 18, 2020.</p> <p>10 And was further updated to address comments received from</p> <p>11 staff. This is provided as Exhibit 47.</p> <p>12 In this study, the analysis used counts collected</p> <p>13 in October and November 2020 in accordance with park and</p> <p>14 planning traffic counts during the pandemic policy update</p> <p>15 memorandum dated September 17, 2020. This LATR was</p> <p>16 grandfathered in under the, again, SSP, as the traffic study</p> <p>17 was scoped and submitted before GIP was formally implemented.</p> <p>18 The conclusions of the LATR is that the</p> <p>19 surrounding network can adequately support traffic generated</p> <p>20 by the proposed project without any roadway improvements or</p> <p>21 mitigation.</p> <p>22 MS. GIRARD: And was that analysis reviewed by</p> <p>23 park and planning staff?</p> <p>24 MS. WAGNER: Yes, that analysis was reviewed by</p> <p>25 park and planning staff as well as SHA and MCDOT.</p>	<p style="text-align: right;">159</p> <p>1 policy.</p> <p>2 In response to this, the Applicant team prepared a</p> <p>3 supplemental analysis using historic traffic counts that were</p> <p>4 available at study area intersections from 2016 and 2013.</p> <p>5 This analysis provided a conservative analysis as the traffic</p> <p>6 counts higher than those used in the LATR analysis. In</p> <p>7 addition, the analysis not only incorporated counts and that</p> <p>8 were higher than what we collected in 2020, but we also</p> <p>9 applied background growth to bring the counts from 2013 and</p> <p>10 2016 up to 2020 rates and these rates were based on</p> <p>11 historical counts collected by SHA to account for growth year</p> <p>12 over year in the area.</p> <p>13 That's all.</p> <p>14 MS. GIRARD: When you mention applying a growth</p> <p>15 factor, have you looked at whether there had, in fact, been</p> <p>16 growth over the years? Was there any data to suggest that</p> <p>17 there had been growth along some of these roads?</p> <p>18 MS. WAGNER: Yes, there was some growth on some of</p> <p>19 these years. There was also negative growth a lot of years,</p> <p>20 but we provided a conservative analysis and applied positive</p> <p>21 growth along the area roadways.</p> <p>22 MS. GIRARD: And what conclusions did you draw</p> <p>23 from your supplemental analysis?</p> <p>24 MS. WAGNER: Based on the supplemental analysis we</p> <p>25 found that medication was needed at the Strathmore Avenue and</p>
<p style="text-align: right;">158</p> <p>1 MS. GIRARD: Okay. And as far as Park and</p> <p>2 planning staff is concerned what was there conclusion</p> <p>3 regarding that study?</p> <p>4 MS. WAGNER: As the study was done to meet their</p> <p>5 guidelines during -- conducting a traffic study during a</p> <p>6 pandemic, we included a growth factor to assume that schools</p> <p>7 were not in session and people were telecommuting. In</p> <p>8 addition to that, we had to balance traffic volumes along the</p> <p>9 roadway as well as take into consideration the schools that</p> <p>10 were in the study area that were not operating at full, our</p> <p>11 regular capacity. Park and planning staff accepted the</p> <p>12 conclusions of that original study.</p> <p>13 MS. GIRARD: And with regard to the Montgomery</p> <p>14 county Department of Transportation, and Maryland State</p> <p>15 Highway Administration he mentioned that they reviewed that</p> <p>16 study as well?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MS. GIRARD: Can you --</p> <p>19 MS. WAGNER: Do you want me to just go?</p> <p>20 MS. GIRARD: I was just going to ask where you're</p> <p>21 going. What were their comments?</p> <p>22 MS. WAGNER: Yeah, so Montgomery County DOT as a</p> <p>23 well as SHA had concerns about the low level of traffic</p> <p>24 volumes collected in 2020, even with the adjustment said that</p> <p>25 we did apply as required by park and planning and their count</p>	<p style="text-align: right;">160</p> <p>1 the center site driveway intersection. This was needed in</p> <p>2 the form of traffic signal, as well as a westbound left turn</p> <p>3 lane into the new site, primarily to mitigate the traffic and</p> <p>4 generated by the school.</p> <p>5 In addition, we recognize that the community has</p> <p>6 raised concerns regarding the delays presented in this LATR</p> <p>7 as well as the supplemental analysis at the intersection of</p> <p>8 Strathmore and Stillwater. And I just wanted to address that</p> <p>9 as I go through some of the findings of our studies. In</p> <p>10 existing conditions, the delays at this specific</p> <p>11 intersection, Stillwater, and Strathmore, drastically exceed</p> <p>12 the congestion standard due to a number of reasons.</p> <p>13 Primarily being the offset of the HCA driveway and the</p> <p>14 Stillwater Avenue intersection. This caused significant</p> <p>15 vehicular delays. The current driveway only has one outbound</p> <p>16 lane causing delays due to any vehicle wanting to turn left</p> <p>17 and needing gaps in traffic in both directions.</p> <p>18 And then, a significant delay is decreased because</p> <p>19 we have taken away that shift and aligned Stillwater and</p> <p>20 site driveway intersection as well as shifted all of the</p> <p>21 school driveway traffic volumes. So those are the findings.</p> <p>22 MS. GIRARD: Okay. And in light of community</p> <p>23 input questioning the validity of the counts uses in both of</p> <p>24 those studies, have you completed any additional analysis?</p> <p>25 MS. WAGNER: Yes. We collected traffic counts in</p>

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<p style="text-align: right;">161</p> <p>1 December of 2021 in response to community concerns that were  2 raised at meetings as well as received in correspondence to  3 really have a better understanding of making sure that we  4 conducted a traffic study in the most appropriate manner  5 given the ongoing pandemic. And when we collected traffic  6 counts the pandemic was not where it is now and there was --  7 schools were really back in session and we found that traffic  8 counts were -- traffic counts that we collected in 2021 were  9 till less than what were used in the supplemental analysis to  10 address the SHA and MCDOT concerns.</p> <p>11 And that we did collect the counts on a day that  12 was in compliance with the park and planning LATR guidelines.  13 We have provided these counts in Exhibit 58-C and then the  14 data is summarized in 58-D in an Excel spreadsheet. The  15 traffic counts indicated that they were higher as I indicated  16 in our supplemental analysis at all but one of our study  17 intersections, which was the Kenilworth Avenue and Strathmore  18 Avenue intersection during the a.m. peak hour compared to the  19 counts collected in December of 2021.</p> <p>20 The Strathmore Avenue and Kenilworth Avenue  21 intersection was found to operate well within congestion  22 standards and future conditions with the project, and the  23 slight increase in baseline traffic volumes during the  24 morning peak hour would not trigger additional mitigation as  25 a result of the proposed development.</p>	<p style="text-align: right;">163</p> <p>1 westbound left turn lane that allows for vehicles to not  2 block through traffic and they are able to shift down to be  3 able to turn into the site. And so those significantly  4 reduce the delays.</p> <p>5 MS. GIRARD: And you've been here for the  6 testimony and I don't want to spend a lot of time on it, as  7 the Hearing Examiner has appropriately pointed out additional  8 connections or alternative connections isn't really within  9 the scope of the hearing but with so many members of the  10 community commenting on it and interested, can you just  11 quickly touch from a transportation engineer perspective why  12 a connection to Cloister or Tuckerman Lane would not be  13 appropriate?</p> <p>14 MS. WAGNER: Yes. And again, as -- in addition to  15 the environmental concerns we also looked at providing the  16 connection to Cloister Drive as we have concerns regarding  17 the sight distance and safety at this intersection that the  18 driver would have to be not only provided through a private  19 road, Cloister Drive is not a public road and is owned by  20 Stoneybrook Home Owners Association. But then, that is along  21 a curvature of roadway which would provide safety concerns  22 for vehicles turning out of that driveway.</p> <p>23 MS. GIRARD: And as I mentioned I know you've been  24 watching the testimony here today. Can you address how the  25 traffic studies death with metro -- anticipated metro</p>
<p style="text-align: right;">162</p> <p>1 I have also received the counts collected by the  2 community in video format as well an excel Spreadsheet and  3 reviewed those. They are indicated that they were submitted  4 as part of an exhibit but I have not found those as an  5 exhibit.</p> <p>6 And so I did review the video in comparison to  7 what the video of our counts showed and that the video  8 selected by -- recorded by the community was then output into  9 a spreadsheet format and I found that the spreadsheet  10 overexaggerated the number of vehicles traveling along  11 Strathmore Avenue. So I -- as well as they are not collected  12 on a typical weekday as required by the park and planning  13 staff.</p> <p>14 MS. GIRARD: And can you -- and I know you may  15 have touched on this a little bit, but can you just explain  16 in a layman's term how the reduction -- I know you mentioned  17 the alignment of the intersection, but as far as installation  18 of turn lanes, traffic signals all of that what the  19 supplemental analysis showed -- now those measures  20 appropriately mitigate and in some cases improve, traffic  21 congestion?</p> <p>22 MS. WAGNER: Yeah. So really mitigating the  23 impacts at the site driveway are found in the fact that we  24 are also providing not only a signal to provide gaps for  25 vehicles exiting the school, we have also provided a</p>	<p style="text-align: right;">164</p> <p>1 ridership?</p> <p>2 MS. WAGNER: Yes. So I would like to bring up  3 Exhibit 47 and on page 18 of that PDF. And I can either  4 share my screen if I need to or someone else can.</p> <p>5 HEARING EXAMINER BAUMGARDNER: That was page 18?</p> <p>6 MS. WAGNER: Yes, please.</p> <p>7 HEARING EXAMINER BAUMGARDNER: It should be on  8 your screen now.</p> <p>9 MS. WAGNER: Yeah, if you can scroll down just a  10 little bit. Yeah, that mode split factors.</p> <p>11 So when we are doing our traffic studies we have  12 to scope our traffic studies with Park and planning staff,  13 with Montgomery County Department of Transportation and SHA.  14 They have specific trip generation rates that we use for  15 different land uses, and in this case, we use multifamily  16 midrise for the townhouses. We used single-family detached  17 housing for the single-family homes, and at then assisted  18 living for the Brandywine facility. So we have to use those  19 specific rates, we can't just make up trip generation rates.  20 And this is based off the Institute of Transportation  21 Engineers trip generation manual that has rates provided for  22 all these uses and based on their evaluation of similar sized  23 uses.</p> <p>24 In addition, in Montgomery County they provide  25 mode split factors, and this is shown on table 3. These are</p>

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<p>165</p> <p>1 base off of Montgomery County's survey of uses with in the 2 specific policy areas. So as you can see, these are the mode 3 split so that we had to use for our trip generation. And 4 these are -- there's been a number of questions raised about 5 our traffic study saying that there is going to be a low 6 number of transit use. This is because we have to use these 7 rates. 8 And the reason for this is that it provides a 9 conservative vehicular analysis that we don't want to 10 overestimate the number of transit trips because we would be 11 at this hearing talking about how we overestimated the number 12 of transit trips, and we have not specifically mitigated 13 vehicular concerns. And so that is why the traffic study 14 does say there is a small number of transit trips, it's 15 because these are the mode splits we have to use. 16 In addition, we have looked at these uses and the 17 number of trips that the calculations and do indicate and we 18 believe that based on our coordination with Brandywine, 19 specifically, and the assisted living facility and the number 20 of employees, shifts, visitors, residents, everything that we 21 have coordinated with them that these numbers are reasonable 22 as far as vehicular trips, and that they will be committed to 23 putting employees on shuttles to and from the Metro, and 24 incentivizing the use of transit. 25 MS. GIRARD: And similarly, when you were</p>	<p>167</p> <p>1 community that were critiquing your study and mentioned that 2 in some of your maps you had a connection shown through, I 3 think it was Bangor Drive that actually were not there. I 4 believe that they are cordoned off and don't actually 5 connect. Have you looked at that, and does that impact the 6 analysis in your study at all? 7 MS. WAGNER: Yes. And you can see that 8 specifically just represented the in a graphic on page 24 of 9 the LATR as well as some of the other figures. It is -- 10 these are fairly -- they are from GIS which is a database 11 where we get graphic so I don't have to draw all the lines on 12 these papers, on all these figures. And so on Bangor Drive 13 there is, the roadway does not connect them but it does not 14 change any of our traffic analysis and the way that traffic 15 volumes would have been rerouted, our site volumes would have 16 been rerouted. We did not affect any of those traffic 17 volumes. 18 MS. GIRARD: And you had mentioned the adoption of 19 the new growth and infrastructure policy and the movement of 20 this property into a red policy area. I think you mentioned 21 that that would not -- would mean in the future there 22 wouldn't be a -- I don't remember how you characterized it, 23 but the vehicular analysis component which you can expand on 24 in your response, but also what the growth policy -- we've 25 had conversations today about looking at upgrading bus stops,</p>
<p>166</p> <p>1 originally doing your scoping, when you were going out to do 2 a study and you had conversations over time with the 3 Brandywine about shifting other shifts, there are a number of 4 employees, how does that, or does that not impact the 5 information in the traffic study? 6 MS. WAGNER: So it really doesn't impact the 7 information of the traffic study. It really impacts the 8 operations of their facility. That we have had conversations 9 regarding -- there is a lot of school traffic, and that it 10 probably would be helpful for the overall development 11 operations as well as the Brandywine not to have the 12 employees coming and going when school is coming in and out, 13 that that will cause delays for their staff to be able to get 14 to work on time. And so there is coordination with the 15 internal project team. But it doesn't really affect the 16 traffic analysis, but it does affect the operations as we do 17 need to use these prescribed numbers given to us from Park 18 and planning staff. 19 MS. GIRARD: And there's nothing that you know, or 20 is there anything that you know about Brandywine's operations 21 that would make you think that the rates dictated by the 22 County and ITE would not be applicable here? 23 MS. WAGNER: No, there is not. 24 MS. GIRARD: There was also testimony, and I 25 believe it's in the record as well from members of the</p>	<p>168</p> <p>1 sidewalks, ADA compliance, is that part of the future studies 2 that will be required under the growth and infrastructure 3 policy? 4 MS. WAGNER: Yes. So as I mentioned the growth 5 and infrastructure policy went into effect January 1, 2021. 6 The LATR guidelines did not come out until July 2021 and so 7 we knew that we were moving this project forward and new that 8 a vehicular analysis would not be required if we were to do 9 our traffic study under the new GIP guidelines, and LATR 10 guidelines. And so we knew that traffic was going to be a 11 concern for the surrounding community and so we didn't want 12 to solely rely on a policy not requiring a study. We knew 13 that we needed to address the community's concerns with our 14 LAT our traffic study as well as our supplemental analysis as 15 well as our ongoing conversations. And so that is why we 16 went ahead and did the traffic study under the old 17 guidelines. And then, I will note that as part of our 18 preliminary plan approval process we will have to do another 19 traffic study to address the new GIP guidelines, and this 20 traffic study will have a much more in-depth review of the 21 pedestrian by the transit and safety surrounding the site, 22 and we will be undergoing that study in the future. 23 MS. GIRARD: Thank you. So based on your 24 analysis, will the proposed project see the traffic volume 25 standard under the planning boards LATR guidelines?</p>

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<p>169</p> <p>1 MS. WAGNER: No. As I stated previously based on 2 the supplemental analysis the Applicant is committed to 3 installing a traffic signal and a westbound left turn lane at 4 the Strathmore Avenue and center driveway intersection in 5 coordination with SHA. 6 MS. GIRARD: And from a transportation engineering 7 standpoint, will the proposed use is to be compatible with 8 existing and approved adjacent development? 9 MS. WAGNER: Yes, the project fits with the 10 surrounding uses of the proposed development while also 11 providing pedestrian connections for the existing 12 developments and a traffic signal to reduce existing traffic 13 delays on Strathmore Avenue. 14 MS. GIRARD: That's all I had for Ms. Wagner. 15 HEARING EXAMINER BAUMGARDNER: Thank you very 16 much. We'll start with Mr. Schaffer. Mr. Schaffer, did you 17 have any questions for Ms. Wagner? 18 MR. SHAFFER: Yes. If you can just be 19 (inaudible). 20 HEARING EXAMINER BAUMGARDNER: Sure. Take your 21 time. You're back on mute, sir. 22 Also, this would be a good time to let everyone 23 know, Mr. Schaffer, you are still on mute. If anyone needs a 24 break as well, please let me know. It's harder to leave the 25 room in a virtual format than it is when you are physically</p>	<p>171</p> <p>1 specific period of time? 2 MS. WAGNER: Yeah, so the way it works is in 3 Montgomery County we have to include anything that hasn't 4 been approved regardless if it won't be built until five 5 years after your development is approved, you have to 6 consider it in your traffic study. 7 MR. SHAFFER: So do you have to consider the 8 numbers in your traffic study as of today, or only over time? 9 MS. WAGNER: When we do our scoping with staff. 10 So as it's fall 2020 we had to include all of those 11 developments in our analysis. 12 MR. SHAFFER: Okay. Now, I was interested in this 13 COVID adjustment factor. With respect to your most recent 14 supplemental analysis do you apply any COVID adjustment 15 factor to that? 16 MS. WAGNER: No because the traffic counts used as 17 the baseline of that traffic study, again, were collected in 18 2013 and 2016 well before any of us adjusted our daily lives 19 for Covid. And so instead of taking into adjustment a coven 20 factor, we grow those traffic volumes year-over-year to 21 adjust to the build out year of the project. 22 MR. SHAFFER: Okay. So the current -- 23 HEARING EXAMINER BAUMGARDNER: I'm sorry. I'm 24 going to ask a clarifying question there. So you would take 25 the counts from 2013 and 2016 and then what factor or what</p>
<p>170</p> <p>1 present. 2 Mr. Schaffer, I still can't tell if you're 3 speaking to an associate or if you're aware that you are 4 still on mute, sir. 5 MR. SHAFFER: Oh, okay. I'm -- sure the keys 6 don't -- on the same screen. 7 Can you hear me now? 8 HEARING EXAMINER BAUMGARDNER: Yes. Yes, sir. 9 MR. SHAFFER: All right. Thank you. I apologize. 10 HEARING EXAMINER BAUMGARDNER: No problem. 11 MR. SHAFFER: Your traffic analysis looks at the 12 impact of this project on the traffic along Strathmore and 13 Rockville Pike and surrounding roads; is that correct? 14 MS. WAGNER: Yes, that is correct. 15 MR. SHAFFER: Does it look at the impact of any 16 other developments in this area on those same intersections? 17 MS. WAGNER: Yes. As detailed on page 21 of the 18 LAT our study, there are 11 -- well, there were 12 background 19 and developments considered that are approved within the -- 20 surrounding our study area. And the 11 of those were 21 specifically included in our traffic study in both the LATR 22 as well as the supplemental analysis. 23 MR. SHAFFER: And for what period of time? In 24 other words, if you've got a development coming 10 years down 25 the line, is that included, or only ones that were within a</p>	<p>172</p> <p>1 element, or what aspect would be included to bring those to a 2 2021/2022 time period? 3 MS. WAGNER: So we look at, I'm seeing if it's 4 detailed in a table. So if you go to Exhibit 50 on page 5 of 5 that PDF. 6 So here we look at traffic volumes along Rockville 7 Pike and Strathmore between 2011 and 2019 really, because 8 those that gave us a good sense of kind of what's been 9 happening on both of those roadways since those are primarily 10 traveled roads. And as you can see, along Rockville Pike 11 we've had negative growth. And so -- and along Strathmore 12 there has been positive growth along Strathmore. So we used 13 a conservative analysis and assumed positive growth along 14 both roadways and took the average annual growth from 2011 15 two 2019 along Strathmore as .2 percent per year and then 16 along Rockville Pike, even though it was negative, we still 17 applied a positive growth. So taking the 2013 volumes we 18 grew them too, I think 2024, and then along Rockville Pike we 19 still took a .1 per year. 20 HEARING EXAMINER BAUMGARDNER: Understood. Mr. 21 Schaffer, does that answer your question? 22 MR. SHAFFER: I think so. 23 HEARING EXAMINER BAUMGARDNER: Well, it certainly 24 helped me. Thank you. 25 MR. SHAFFER: So what have you considered the</p>

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<p style="text-align: right;">173</p> <p>1 possibility of cut through traffic through the Stillwater and  2 surrounding neighborhoods as people come out of the Academy?  3 MS. WAGNER: Yes, we have. And that's  4 specifically part of the design and coordination that the  5 project team has undergone with the Academy as part of this  6 project. The Academy will be directed to use, I don't  7 remember what street. Street see, Erin, the correct Street?  8 The middle Street?  9 MS. GIRARD: I believe it's A.  10 MS. WAGNER: What, what is it?  11 MS. GIRARD: I believe it's A.  12 MS. WAGNER: So the Academy will be directed to  13 use the street a and not use Street C which connects to  14 intersection 2 as shown here. And so they will be directed  15 to not cut through the neighborhood, and again that alignment  16 with the signal will encourage vehicles to turn left, or  17 right out of the site and not be encouraged to cut through  18 the neighborhood.  19 MR. SHAFFER: And how is it that commitment going  20 to be enforced?  21 MS. WAGNER: We will need to coordinate with the  22 school, but my understanding is that they will be directing  23 parents and students to not drive through the neighborhood.  24 MR. SHAFFER: Well, I mean a directive is all  25 nice, but if the light is red up at Rockville Pike and it's</p>	<p style="text-align: right;">175</p> <p>1 to R5W or for us to get over to the other side of  2 Strathmore either coming home on the bus or to walk up to the  3 Metro?  4 (iPad translating)  5 Sorry about that. My iPad suddenly started  6 translating everything I said into English.  7 MS. WAGNER: I think it's still going.  8 HEARING EXAMINER BAUMGARDNER: Not a problem,  9 we'll take a second.  10 MS. WAGNER: Let me know and I can respond to your  11 question.  12 MR. SHAFFER: I'm sorry. I've got three devices  13 going here to handling a hearing while blind.  14 I'm sorry, can the court reporter repeat my  15 question?  16 HEARING EXAMINER BAUMGARDNER: Mr. Costello, are  17 you with us?  18 COURT REPORTER: Yes, sir. Stand by.  19 HEARING EXAMINER BAUMGARDNER: Thank you so much.  20 (Requested portion played back)  21 MR. SHAFFER: Oh yes. Okay. With that prompt I  22 think I can start over again.  23 So have you considered any steps to increase  24 pedestrian safety at the cross walk between -- at Stillwater  25 and Strathmore so that people can access public</p>
<p style="text-align: right;">174</p> <p>1 backed up all the way down Strathmore, as it is sometimes,  2 isn't it going to be awfully convenient for people to take a  3 right on Stillwater and go around over to Rockville Pike that  4 way?  5 MS. WAGNER: We have looked at travel times and do  6 not anticipate that being a concern.  7 MR. SHAFFER: And have you looked at the ability  8 of people trying to make a left turn on Stillwater during  9 times when the Academy is letting students in and out?  10 MS. WAGNER: Yes, that is primary. There has been  11 conversation about what providing only one driveway, and that  12 is again why we are providing three driveways for the  13 project. Driveway 4 is for loading and back of house  14 activity to not be near a school or residential community.  15 Driveway 3 is to provide the traffic signal for the school  16 traffic and St. Angela's -- and the Brandywine facility and  17 then driveway 2 is to allow residents to have another access  18 point, emergency vehicles to have another access point to be  19 able to turn left and/or right to get out of the development  20 when schools are being -- at the pickup and drop off time  21 periods.  22 MR. SHAFFER: Now, for people that are walking  23 down to get the 5W at Strathmore and Stillwater have you  24 considered the -- any improvements to pedestrian safety to  25 make it easier for the residents of the community go get over</p>	<p style="text-align: right;">176</p> <p>1 transportation safely on either side of the street and across  2 the street?  3 MS. WAGNER: Yes, we have. That's -- aligning the  4 intersection helps tremendously with that safety improvement  5 that when vehicles are turning northbound and turning left  6 onto Strathmore that now they can see the pedestrians at that  7 intersection and they are not 100 feet away from the  8 pedestrian so they are much more in the visibility of the  9 vehicles.  10 In addition, they are -- as I mentioned  11 previously, we do still have to do a traffic study as part  12 of our preliminary plan approval process. And with that  13 study we have to do a lot of analysis looking at  14 pedestrian/bike transit safety connections through to the  15 area and we'll have to look at providing anything -- any  16 connections that do to meet ADA standards and so when we look  17 at -- when we do that traffic study we will have to make a  18 sure everything at that intersection is up to ADA standards.  19 So we have not committed to anything at this time, but that  20 will be part of the preliminary plan approval process.  21 MR. SHAFFER: Would that include an APS?  22 MS. WAGNER: We would have to coordinate that with  23 SHA and MCDOT that they oftentimes do not want APS at  24 driveways specifically, that it creates confusion for drivers  25 turning at the -- if they were to be turning off of</p>

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<p style="text-align: right;">177</p> <p>1 Stillwater Avenue that they can't see the flashing pedestrian 2 telling people to stop walking -- or telling vehicles to stop 3 walking that they can't, when they're making that right turn, 4 they can't see that. So that would have to something that's 5 evaluated during the preliminary plan process with SHA and 6 MCDOT. 7 HEARING EXAMINER BAUMGARDNER: And for the purpose 8 of the record, what is APS? 9 MR. SHAFFER: Audible pedestrian signal. 10 HEARING EXAMINER BAUMGARDNER: Thank you. 11 MR. SHAFFER: It can either tell you when the 12 lights have changed or it can tell you when it's safe to 13 walk. Many times it will activate yellow flashing lights to 14 indicate to drivers that a person's crossing the street. 15 Sometimes it flashes red light. 16 MS. WAGNER: And it will act -- it will be 17 required as part of the traffic signal at the site driveway 18 and there are bus stops near there as well, and so we will 19 have to look at that. We will have to provide APS at that 20 traffic signal. So that would provide a crossing there. So 21 that safety concern is also addressed with us providing that 22 traffic signal. 23 MR. SHAFFER: Does this include the upgrade of the 24 bus stops to meet Metro's ADA standards? 25 MS. WAGNER: That would be required as part of our</p>	<p style="text-align: right;">179</p> <p>1 of the reports generated. 2 MR. BURDIN: Okay. Are there any parts of these 3 reports you're not familiar with or your less comfortable 4 testifying about? 5 MS. WAGNER: Nope. 6 MR. BURDIN: Okay. And you're aware that the 7 proximity of the project to mass transit, such as a Metro 8 station is important when the County is deciding whether to 9 make a zoning change; is that right? 10 MS. WAGNER: Yes. 11 MR. BURDIN: Okay. You mentioned that you talk 12 with somebody at Brandywine, apparently not MS. WAGNER today, 13 but -- and got information about shifts and number of 14 employees; is that correct? 15 MS. WAGNER: Yes. 16 MR. BURDIN: Okay. Is any of that information or 17 analysis of that information in any of your reports, or 18 otherwise in the record? 19 MS. WAGNER: No, that is not. 20 MR. BURDIN: Okay. The L ATR says that the site 21 is expected to generate a minimal amount of transit trips, 22 which will not have detrimental impact on the surrounding 23 transportation network; do you stand by that conclusion? 24 MS. WAGNER: I already detailed this in my 25 testimony previously where the trip generation numbers that</p>
<p style="text-align: right;">178</p> <p>1 preliminary plan, traffic study is looking at that and 2 committing to improving things to standards. 3 MR. SHAFFER: Okay. Because you are aware they 4 are currently not? 5 MS. WAGNER: Yes, they are very limited bus 6 facilities, we recognize that. 7 MR. SHAFFER: Yes. I think I'll yield my 8 questions on this now, to Doug who I think has a much better 9 understanding since he lives right there. Thank you. 10 HEARING EXAMINER BAUMGARDNER: Thank you, Mr. 11 Shaffer. 12 Mr. Burdin, did you have any questions for Ms. 13 Wagner? 14 MR. BURDIN: Yes, I do. Thank you. 15 Ms. Wagner could you explain your role in 16 preparing the LATR, the supplemental analysis in the December 17 2021 report that you discussed? 18 MS. WAGNER: Yes. As I said, I am a traffic 19 engineer and so my role in preparing these studies is to 20 review and work with -- I have staff that I work with, and so 21 I reviewed their models, I review their projections of 22 traffic volumes, and then write the reports. 23 MR. BURDIN: Were you the lead on any role of 24 these reports? 25 MS. WAGNER: Yes, 100 percent the lead role on all</p>	<p style="text-align: right;">180</p> <p>1 are included in the LATR are dictated by County policy. And 2 so while our traffic study says that there will be a minimal 3 number of transit trips generated this is to not 4 underestimate the vehicular impacts and so we would be having 5 the opposite conversation today. 6 And so while the traffic study, yes, does indicate 7 that there is a minimal number of transit trips generated 8 based on the County policy, we have designed and coordinated 9 with the project team to encourage the use of public 10 transportation by staff members at the Brandywine facility as 11 well as residents having connections to make it easier to 12 travel to and from the Metro site. 13 MR. BURDIN: Is any of what you just discussed in 14 your report or otherwise in the record? 15 MS. WAGNER: Yes, that is -- we looked at that 16 previously on page 18 of the LATR that that was what we 17 talked about. We previously pulled that up. 18 MR. BURDIN: Page 18 of the LATR. Is that the 19 document page or the PDF page? 20 MS. WAGNER: The PDF page. 21 MR. BURDIN: Do you know what the document page 22 is? 23 MS. WAGNER: 11. 24 MR. BURDIN: Hopefully, I have it. 25 HEARING EXAMINER BAUMGARDNER: I can pull it up,</p>

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<p>181</p> <p>1 just one second.</p> <p>2 MR. BURDIN: Okay. I don't have it printed.</p> <p>3 Thank you.</p> <p>4 HEARING EXAMINER BAUMGARDNER: I believe that this</p> <p>5 is the page that means that Ms. Wagner was testifying about.</p> <p>6 MR. BURDIN: Okay. On that page, can you point</p> <p>7 out specifically how your conversations with Brandywine about</p> <p>8 their citizens and employees as reflected</p> <p>9 MS. WAGNER: In this report? As I previously</p> <p>10 said, we didn't include anything about our conversations with</p> <p>11 Brandywine in the document.</p> <p>12 MR. BURDIN: I'm sorry. I thought you just said</p> <p>13 you did?</p> <p>14 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, her</p> <p>15 testimony wasn't that those conversations were not included</p> <p>16 but that the -- in the trip generation summary the statement</p> <p>17 and the characterization that there will be minimal and</p> <p>18 transit is used, Ms. Wagner had stated that the source of</p> <p>19 that statement, or that thought was because of the minimum</p> <p>20 percentage required by the County is a factor in the trip</p> <p>21 generation summary. Ms. Wagner can correct me if I am wrong,</p> <p>22 but that was my understanding of her testimony.</p> <p>23 MS. WAGNER: Yes, you are correct.</p> <p>24 MR. BURDIN: Okay. I understand that. What I was</p> <p>25 trying to get at is you mentioned conversations with</p>	<p>183</p> <p>1 MS. WAGNER: Because we needed to follow the</p> <p>2 guidelines and doing traffic study per their guidelines, and</p> <p>3 we need to follow what we had scoped with MCDOT and SHA and</p> <p>4 County staff, and there are very prescribed rates that we</p> <p>5 have to use.</p> <p>6 MR. BURDIN: So to the extent you have stated that</p> <p>7 transits use is expected to be minimal that undermines any</p> <p>8 reliance on any county or master plan policy goal of putting</p> <p>9 housing near transit? Do you agree with that, is that fair</p> <p>10 to say?</p> <p>11 MS. GIRARD: Objection. We keep trying to</p> <p>12 conflate the master plan and the traffic study. Katie -- Ms.</p> <p>13 Wagner is an expert in transportation engineering. We're</p> <p>14 talking about her report. She is not here to testify about</p> <p>15 county policies that regard the master plan.</p> <p>16 HEARING EXAMINER BAUMGARDNER: I'll sustain the</p> <p>17 objection. What I'm getting from her testimony and from when</p> <p>18 I reviewed the report last night prior to the hearing was</p> <p>19 that there is a conservative estimate of the transit trips</p> <p>20 built into the analysis because of the numbers from the</p> <p>21 county. If those numbers are not correct, because in</p> <p>22 actuality more people use transit, that's a good thing for</p> <p>23 everybody.</p> <p>24 But instead of erring on the side of thinking</p> <p>25 there's going to be more transit, we err on the side of</p>
<p>182</p> <p>1 Brandywine about employees and shifts. I thought to suggest</p> <p>2 that the numbers you got in this report might be a little</p> <p>3 low; is that correct or incorrect?</p> <p>4 MS. WAGNER: No. The conversations we had with</p> <p>5 Brandywine are to make sure that our calculations and our</p> <p>6 trip generation seemed reasonable with what they are</p> <p>7 anticipating and are not underestimating or overestimating</p> <p>8 based on the prescribed rate that we are required to use by</p> <p>9 staff. And this so that is what we know detail every -- we</p> <p>10 don't detail all of the specifics in our traffic study with</p> <p>11 regards to employment data because we have to use the</p> <p>12 specific rates. And so we didn't want to -- that we</p> <p>13 anticipate more people using transit than our traffic study</p> <p>14 indicates. But we don't want to underestimate the number of</p> <p>15 vehicle trips generated by the project, and so we are not</p> <p>16 mitigating those impacts. We don't need to do anything to</p> <p>17 mitigate transit impacts, that's seen as a plus, that more</p> <p>18 people are using transit than are driving.</p> <p>19 MR. BURDIN: So I understand, if your</p> <p>20 conversations with Brandywine indicated that this county</p> <p>21 required assessment that you did use in their parameters,</p> <p>22 wasn't grossly underestimated anticipated transit trips,</p> <p>23 would you have mentioned that in your report?</p> <p>24 MS. WAGNER: Not necessarily, no.</p> <p>25 MR. BURDIN: Why would you put that in there?</p>	<p>184</p> <p>1 thinking that there's going to be less transit because the</p> <p>2 different mitigation strategies that are common amongst</p> <p>3 traffic experts and traffic planners mostly go towards</p> <p>4 vehicular traffic.</p> <p>5 So again, this is what I've gathered from Ms.</p> <p>6 Wagner's testimony today. I don't know if -- the question</p> <p>7 regarding the master plan really fits in here, Mr. Burdin.</p> <p>8 If you can ask your question another way perhaps, that</p> <p>9 might get better to the point of what you're trying to make.</p> <p>10 MR. BURDIN: Okay. I previously asked her if</p> <p>11 proximity of the project to mass transit, such as the metro</p> <p>12 is relevant to what you're going to make a recommendation on</p> <p>13 or what the County is going to decide about the zoning change</p> <p>14 and she said, yes it is. So what I'm trying to understand is</p> <p>15 that -- and other people have testified about the proximity</p> <p>16 to transit and being the root of the zoning change.</p> <p>17 But the statement in the report is that transit</p> <p>18 use is expected to be manual, and there's nothing in the</p> <p>19 report that says that that's wrong. And that this policy,</p> <p>20 whether it's in the master plan, or whatever, is going to be</p> <p>21 served by this project. And that's what I'm trying to I keep</p> <p>22 getting objected to and said it's not relevant and she's not</p> <p>23 an expert, well who is?</p> <p>24 HEARING EXAMINER BAUMGARDNER: I can understand</p> <p>25 your point. And I note your point, but I don't think that</p>

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<p>185</p> <p>1 this witness can comment on the master planning process going 2 forward if that makes sense. And I don't think this hearing 3 would be the best avenue in which to accomplish that. I'm 4 thinking of what other witness might be of value. But I 5 think we can move on from this point, but I do understand 6 your point, sir. 7 MR. BURDIN: Okay. 8 HEARING EXAMINER BAUMGARDNER: But I think we can 9 move on with any other questions that you have at this point. 10 MR. BURDIN: Okay. Turning to the LATR, you 11 concluded that all the intersections in the study were 12 operating within the congestion standards; is that right? 13 MS. WAGNER: Yes. 14 MR. BURDIN: Okay. The -- and this is Exhibit 47, 15 Table 7 shows the delays at the six intersections and the 16 existing background and the future conditions for a.m. peak 17 hours; have I got that right? 18 MS. WAGNER: Yep. 19 MR. BURDIN: Okay. Currently the intersection at 20 Strathmore and Stillwater includes the entrance to the Holy 21 Cross Academy, right? 22 MS. WAGNER: It's page 37. 23 HEARING EXAMINER BAUMGARDNER: Thank you. 24 MS. WAGNER: You're welcome. 25 MR. BURDIN: I may be using the document pages.</p>	<p>187</p> <p>1 MS. WAGNER: Into the background conditions 2 that -- existing conditions look at just -- I've -- sorry. I 3 think actually, existing conditions we had the count 4 adjustment factor as well as the school traffic. And then, 5 we look at volumes with those adjustments already considered. 6 So the existing conditions take into consideration the 7 school. 8 MR. BURDIN: And what were you adjusting? Your 9 2020 counts? 10 MS. WAGNER: I'm going to refer to the Exhibit so 11 that way we can -- if you go to page 25. 12 MR. BURDIN: Again, PDF or document? 13 MS. WAGNER: It's on the screen, it's page 18 of 14 the document. 15 So on the top of the little picture, scroll up 16 just a little bit. It says adjusted existing peak hour 17 traffic volumes includes the following. Peak hour traffic 18 volumes collected in the fall of 2020, removal of existing 19 school volumes captured in the 2020 counts. That takes into 20 consideration that the school was not operating normally. We 21 just removed virtual operations, whatever was happening at 22 the school, and then we added in the COVID-19 policy 23 adjustment as well as projected school volumes with a full 24 enrollment of 600 students. 25 MR. BURDIN: Okay. And then -- but didn't you</p>
<p>186</p> <p>1 MS. WAGNER: He's just pulling them up. You said 2 Table 7 so I just wanted to make sure we had the -- we're all 3 on the same page. Sorry, can you repeat your question? 4 MR. BURDIN: Sure. Currently the intersection at 5 Strathmore and Stillwater, which is reflected on the chart 6 includes the entrance to the Holy Cross Academy, right? 7 MS. WAGNER: Yes, it does. 8 MR. BURDIN: Okay. And for the counts that you 9 used in the LATR for this intersection if you had used a 10 count during 2020, during the pandemic when the Academy was 11 not in session in person meaning those students and no or few 12 staff that would grossly undercount the anticipated traffic 13 at that intersection even with the County's 1.07 adjustment 14 factor; is that fair to say? 15 MS. WAGNER: No. That is not correct. AS I 16 indicated previously we included background developments, as 17 well as taking into consideration schools that are not in 18 session -- that were not fully in operation. And so we did 19 add in, in addition to the count policy, background 20 developments, we also added in the schools traffic assuming 21 full approved enrollment, which is 600 students and the 22 school does not have any desire to reach that full enrollment 23 at this time. And so we did add in those fully 600 students 24 assuming full enrollment. 25 MR. BURDIN: Okay. You added them into what?</p>	<p>188</p> <p>1 make all these adjustments to historical traffic will counts 2 counts from 2013 and 2005? 3 MS. WAGNER: No. We have two different studies. 4 So this is the LAT our study that was done in accordance with 5 Montgomery County's policies, and then we have an LATR 6 traffic study -- or we have the supplemental analysis that 7 was done in accordance with park and planning's -- the 8 supplemental analysis was done to address MCDOT and SHA 9 comments. 10 MR. BURDIN: Okay. Yeah. I'm not confusing it 11 with the supplemental analysis. My understanding is since 12 you concluded that the counts and even adjusting the 2020 13 counts for the school would not be at all accurate because 14 the school was not in session, that you went back and used 15 2005 and 2013 actual counts for that intersection at 16 Strathmore and Stillwater, which is also the school entrance, 17 and you adjusted those to the current time and to an 18 enrollment of 600? 19 MS. WAGNER: Yes. Yes, now I see what your 20 question is. Yes, and that is provided on page 20 where we 21 calculated trip generation rates for previous driveway counts 22 done for the school to project out what a 600 enrollment and 23 traffic volumes would be. 24 MR. BURDIN: Okay. so you actually used 25 historical counts even though you suggest elsewhere those are</p>



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<p style="text-align: right;">189</p> <p>1 not proper for this particular intersection. I understand it</p> <p>2 totally. I think it was the right thing to do, but you used</p> <p>3 historical counts for that intersection, right? Strathmore</p> <p>4 and Stillwater.</p> <p>5 MS. WAGNER: We used historical counts to</p> <p>6 calculate the trip generation for the school. We did not use</p> <p>7 historical counts for that intersection.</p> <p>8 MR. BURDIN: Okay. In using your Table 7 shows</p> <p>9 for the Strathmore Stillwater intersection a delay of 445.2</p> <p>10 seconds for the a.m. existing conditions; is that correct?</p> <p>11 MS. WAGNER: Yes.</p> <p>12 MR. BURDIN: And for the background at the same</p> <p>13 intersection and time period is 449.9?</p> <p>14 MS. WAGNER: Yes.</p> <p>15 MR. BURDIN: And the LATR contributes that</p> <p>16 existing delay to a significant number of westbound left</p> <p>17 turning traffic turning into the school and northbound left</p> <p>18 turning traffic turning out of the school. I think you said</p> <p>19 that before, right?</p> <p>20 MS. WAGNER: Yes.</p> <p>21 MR. BURDIN: Okay. And, as I think you've said in</p> <p>22 the proposed future conditions the entrance as shifted to the</p> <p>23 center road so that the entrance and exit for the school is</p> <p>24 now the center drive entrance, right?</p> <p>25 MS. WAGNER: That's correct.</p>	<p style="text-align: right;">191</p> <p>1 by the school is going to be shifted from Strathmore and</p> <p>2 Stillwater under existing and background to Strathmore center</p> <p>3 entrance in the future conditions, right?</p> <p>4 MS. WAGNER: Yes, that is correct.</p> <p>5 MR. BURDIN: Okay. So from the perspective of</p> <p>6 trying to understand what happens to this delay that's</p> <p>7 indicated for existing and future versus -- I mean, existing</p> <p>8 and background versus future, those are the intersections to</p> <p>9 look at?</p> <p>10 MS. WAGNER: Again, like I said, it's not apples</p> <p>11 to apples but that is why there is a reduction in delay at</p> <p>12 the Strathmore and Stillwater intersection.</p> <p>13 MR. BURDIN: Okay. And the future conditions</p> <p>14 includes the traffic added that by the proposed development,</p> <p>15 including the homes and residential care facility, is that</p> <p>16 right?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MR. BURDIN: Okay. So if the delay, or congestion</p> <p>19 between the existing conditions and future conditions was</p> <p>20 reduced by about 40 times; is that right?</p> <p>21 MS. WAGNER: Yes.</p> <p>22 MR. BURDIN: And explain the reduction in delay</p> <p>23 the LATR mentions the alignment of the western most project</p> <p>24 road with Stillwater which eliminates a slight offset and</p> <p>25 moving the school traffic to the proposed center entrance.</p>
<p style="text-align: right;">190</p> <p>1 MR. BURDIN: Okay. So in terms of the Academy</p> <p>2 traffic between existing background and as compared to future</p> <p>3 conditions your report compares the delays to the existing</p> <p>4 Strathmore Stillwater intersection with the future Strathmore</p> <p>5 center entrance; is that right?</p> <p>6 MS. WAGNER: We have all of the intersections in</p> <p>7 here. None of them go away.</p> <p>8 MR. BURDIN: Right. But for purposes of</p> <p>9 understanding this delay at Strathmore and Stillwater which</p> <p>10 is in large part, or in some part caused by the school</p> <p>11 entrance and exit, and the new entrance and exit to the</p> <p>12 school the -- on the chart the relevant things to compare and</p> <p>13 look at are the 445.2 and 449.9 number and for the future</p> <p>14 conditions the 10.7 number for the Strathmore center site</p> <p>15 driveway?</p> <p>16 MS. WAGNER: No, you can't compare apples to</p> <p>17 apples because the Stillwater Strathmore intersection in</p> <p>18 background and existing conditions is an offset intersection.</p> <p>19 And it's a four-way intersection whereas, in the future</p> <p>20 condition it's only a T-intersection, and so the nature of an</p> <p>21 offset four-way intersection compared to a T-intersection</p> <p>22 they are not apples to apples comparison when we run our</p> <p>23 traffic models.</p> <p>24 MR. BURDIN: Okay. But your report says that the</p> <p>25 school traffic -- that the traffic and congestion generated</p>	<p style="text-align: right;">192</p> <p>1 This is a part of your explanation for the reduction in</p> <p>2 delay, is that right?</p> <p>3 MS. WAGNER: Yes, in addition to other analysis</p> <p>4 parameters.</p> <p>5 MR. BURDIN: Okay. You also point to adding a</p> <p>6 left turn lane out of the proposed school entrance so that</p> <p>7 there would be a single lane for traffic turning right into</p> <p>8 the school and separate right and left turns out of the</p> <p>9 school, did I get that right?</p> <p>10 MS. WAGNER: I didn't think that there was a right</p> <p>11 turn lane into the school.</p> <p>12 MR. BURDIN: I'm sorry, not a separate lane but</p> <p>13 cars on Strathmore would turn right into the school and into</p> <p>14 the lane?</p> <p>15 MS. WAGNER: Yes.</p> <p>16 MR. BURDIN: I'm just trying to establish</p> <p>17 this -- the other mitigating -- or other factor you</p> <p>18 mentioned, there's three lanes coming out of the school; is</p> <p>19 that right? Without worrying about --</p> <p>20 MS. WAGNER: There's two lanes coming out of the</p> <p>21 proposed driveway and one -- it's two lanes out and one lane</p> <p>22 in so that's (inaudible) intersection.</p> <p>23 MR. BURDIN: Yeah. Okay. Three. Right, right,</p> <p>24 that's what I was trying to get at. And as analyzed in the</p> <p>25 LATR are there any other ground changes affecting the delays</p>

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<p>193</p> <p>1 at the center school entrance? Are those three things 2 capture what's -- explaining the delay? 3 MS. WAGNER: So in our models we have to include 4 other parameters to account for on the ground conditions. 5 These include peak hour factors heavy vehicle percentages. 6 I'm trying to think of anything else. And those go into our 7 models as we -- that they are from our traffic counts that we 8 collect and so we have to put those into our models. And so 9 those are seeing in our -- in the reports included in the 10 appendix of our traffic study. And so those also affect the 11 analysis results. 12 MR. BURDIN: Okay. But nothing else on the 13 ground? 14 MS. WAGNER: Not that I am 15 MR. BURDIN: Counting, yeah. Okay. In the sort 16 of layperson's terms, is it fair to say that congestion or 17 delay is caused by too many cars with too few places to go on 18 the roads? I know you're an expert and that's not very 19 technical, but I'm trying to understand 20 MS. WAGNER: Yes. 21 MR. BURDIN: Okay. Now, can you explain, again, 22 in a layperson's terms how the alignment of the Stillwater 23 and the western entrance of the site is going to reduce the 24 delay and congestion? 25 MS. WAGNER: They are (inaudible) that are</p>	<p>195</p> <p>1 want to say primarily yes, but there are small tweaks that 2 happen, it's called progression factor where it's kind of 3 taking into the movement of cars along a corridor. So while 4 no, theoretically, but there is a small part that is affected 5 it. 6 MR. BURDIN: Okay. But for the most part it's not 7 going to solve that problem? 8 MS. WAGNER: Correct. 9 MR. BURDIN: Okay. So again, in layperson's 10 terms, to the best of your ability, can you explain what 11 happens to all the cars and congestion that's reflected Table 12 7 in the line about Strathmore and Stillwater and the 13 entrance, you know 445 seconds of delay that gets down to 10 14 seconds? That's very hard to understand. Like, what happens 15 to all those cars? How are things moving so much more 16 efficiently the delay is almost eliminated. 17 MS. WAGNER: I think that this is best shown in 18 Figure 31 -- or on page 31 of the LATR. Again, it's Exhibit 19 47. Where delay is calculated at the intersection, and its' 20 again that there are, little picture number 2 for 21 intersection 2, where you can see there are a lot of vehicle 22 turning movements at that intersection being removed. And 23 when you, again, have only a single lane exiting the site, 24 that all of the cars turning right are behind all the cars 25 turning left. And so just think about how much longer that</p>
<p>194</p> <p>1 considered in our models. I do not do these as hand 2 calculations, these are (inaudible) traffic software that we 3 use where we input all these parameters and the calculation 4 is done in the software. And so I can't really explain those 5 in layperson's terms because the manuals to do those 6 calculations are hundreds and hundreds of pages long. But it 7 has to do with the amount of reaction time, the delays caused 8 by turning left and then there's somebody turning right and 9 so you're not quite have the same ability to turn at the -- 10 to be at the intersection at the same time. 11 MR. BURDIN: But that -- well, first of all, the 12 numbers of people using Stillwater, either coming out of it 13 or turning into it were pretty low. Is that fair to say? 14 MS. WAGNER: Yes. Yep. 15 MR. BURDIN: Okay. And in this realignment of and 16 the western entrance will not affect, or improve people on 17 Strathmore heading west, turning left into the Academy and 18 the center entrance, right? 19 MS. WAGNER: Can you say your question again? 20 MR. BURDIN: Sure. The realignment of Stillwater 21 and the western entrance into the proposed development will 22 not address the identified problem of cars on Strathmore 23 heading West, turning left into the center entrance? 24 MS. WAGNER: No, but our models do take into 25 consideration other intersections in the network. And so I</p>	<p>196</p> <p>1 makes -- if you have a right turn movement that's more 2 readily available when vehicles are turning right into the 3 site, vehicles can turn right out of the site. 4 Again, that drastically reduces the delay in having 5 those two movements able to happen at the new intersection 3. 6 And then, any -- again, the -- providing the westbound left 7 turn lane that you have 111 cars in the morning peak hour 8 trying to turn into the site and then they're blocking all of 9 those cars behind them. And so -- 10 MR. BURDIN: I'm sorry, are you talking about on 11 Strathmore, the left turn lane? 12 MS. WAGNER: Yes. Yeah. 13 MR. BURDIN: Okay. Well, there is none in this 14 analysis, isn't that right? 15 MS. WAGNER: Right, but you were asking why the 16 delay is reduced so drastically and I'm trying to explain 17 that. 18 MR. BURDIN: Yeah, but you're pointing to a left 19 turn lane on Strathmore that doesn't exist in this analysis. 20 That's only in the supplemental analysis; isn't that right? 21 MS. WAGNER: Okay. Then I'll explain why. So 22 I'll take away that one. 23 MR. BURDIN: Okay. 24 MS. WAGNER: Other reasons why the delay got 25 reduced so drastically at this intersection. And it's -- and</p>

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<p style="text-align: right;">197</p> <p>1 then it's the conflicting movements with the southbound  2 vehicles is again why the delay is reduced so drastically.  3 MR. BURDIN: So the extra lane coming out of the  4 entrance, maybe that's what you were meaning to refer to will  5 help. That's understandable. But --  6 MS. WAGNER: And the southbound conflicting  7 vehicles, yes.  8 MR. BURDIN: Okay. Are you suggesting cars  9 leaving the Holy Cross center -- the existing exit out of  10 Holy Cross Academy would take advantage of cars turning right  11 into the Academy to make a left turn? Did you say that or  12 did I mishear?  13 MS. WAGNER: In the future, when it gets shifted.  14 If a car's turning right in they can turn -- if a car is  15 turning right in then both cars can -- where if a car is  16 turning right in, a car can turn right out. Then whereas,  17 when there is only a single lane they are stuck behind the  18 left turning vehicle.  19 MR. BURDIN: Okay. I thought you said the cars  20 could turn -- take advantage of that car on Strathmore going  21 is turning into the Academy entrance, cars coming out of the  22 entrance could turn left and headed west on Strathmore.  23 Okay. You did not say that.  24 MS. WAGNER: No, I didn't mean to. If I did I  25 apologize.</p>	<p style="text-align: right;">199</p> <p>1 same intersection in a.m. peak was 77.7 seconds with no  2 signalization, right?  3 MS. WAGNER: Yep.  4 MR. BURDIN: Okay. And for this intersection, the  5 supplemental analysis used, the 2013 historical counts and  6 adjusted them in various ways including for 600 students;  7 isn't that right?  8 MS. WAGNER: Yes, that is correct.  9 MR. BURDIN: So the difference for this  10 intersection between the LATR and the supplemental was any  11 supplemental you did not use the 2005 counts, right?  12 MS. WAGNER: No, we used the -- because the 2005  13 counts were to take into consideration the 600 students. And  14 the 2013 counts, I think that we -- sorry, I just need to  15 refresh my memory.  16 MR. BURDIN: Sure.  17 MS. WAGNER: So we did the same. So on page 10 of  18 the supplemental analysis we also removes the 2013 driveway  19 counts because in 2013 the school was not at full enrollment,  20 and again, we wanted to kind of like a background project we  21 needed to make sure to assume all of the traffic that is  22 approved on the roadway network. And so that's why we  23 removed, again, the 2013 school driveway counts and added a  24 full 600 enrollment to the roadway network.  25 MR. BURDIN: Are you saying you did not rely on</p>
<p style="text-align: right;">198</p> <p>1 MR. BURDIN: Yes, that sounds very dangerous.  2 MS. WAGNER: Yeah.  3 MR. BURDIN: Okay. Is there anything else you  4 have to explain this 40 times at reduction between the  5 existing and future?  6 MS. WAGNER: Not that I can think of.  7 MR. BURDIN: Okay. Now, turning to the  8 supplemental analysis it uses different accounts and  9 adjustment factors for all the intersections than the  10 original LATR did; is that correct?  11 MS. WAGNER: Yes.  12 MR. BURDIN: And it has a table similar to Table 7  13 in the LTR that also contains the existing background and  14 future delays for the a.m. and p.m. for all the  15 intersections; is that right?  16 MS. WAGNER: Yes. And that is Exhibit 50, and  17 page 26.  18 MR. BURDIN: Okay. And that analysis resulted in  19 existing condition delays of 224.2 seconds at the Strathmore  20 Stillwater for the a.m. peak; is that right?  21 MS. WAGNER: Yes.  22 MR. BURDIN: Okay. And that's unsignalized,  23 right, that we're talking about right now?  24 MS. WAGNER: Yes.  25 MR. BURDIN: Okay. And then the future for that</p>	<p style="text-align: right;">200</p> <p>1 the 2013 historical counts as a starting point?  2 MS. WAGNER: No, I am not saying that. We had  3 2013 and 2016 counts not at every intersection. We had  4 2013 -- and this is detailed on page 4 of the supplemental  5 analysis. We had 2013 counts at Stillwater and Strathmore.  6 And then we had 2016 counts at Rockville Pike and Strathmore.  7 And so we need to be able to have full enrollment  8 of the school on the roadway network at all of the study  9 intersections, and so that's where we took away the 2013  10 turning movements for the school and added in the full 600  11 students enrollment onto the roadway network intersections.  12 So we did take in -- so while we did use the 2013 counts at  13 Strathmore and Stillwater, we still removed the school  14 traffic volumes and added in the full enrollment.  15 MR. BURDIN: Okay. So you essentially adjusted  16 them as if that 2013 counts as if there were 600 students?  17 MS. WAGNER: Yes. Yeah.  18 MR. BURDIN: Okay. And that similar to what you  19 did in the LATR with the 2005 and 2013 counts; is that right?  20 MS. WAGNER: Yeah, we did, And I think the table  21 is the exact same that was in the LATR that's in the  22 supplemental analysis.  23 MR. BURDIN: Okay. And you used the same modeling  24 program between the LATR and the supplemental analysis?  25 MS. WAGNER: We used Synchro, The traffic software</p>

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<p style="text-align: right;">201</p> <p>1 in both of our models, but we did have different parameters  2 that we had to use in our models to take into consideration  3 the different counts that were collected and used as the  4 baseline.  5 MR. BURDIN: But the difference between the counts  6 was that's between the two was, in one you used 2005 and '13,  7 and the other you only used 2013, right?  8 MS. WAGNER: No. No, you're getting -- it's kind  9 of confusion because the school counts were done in 2005 and  10 2013 and the historical counts at the traffic intersections  11 were done in 2016 and 2013. So LATR used 2020 traffic  12 volumes, supplemental analysis used 2013 and 2016 volumes  13 both studies used the 2005, 2013 school trip rates for 600  14 students.  15 MR. BURDIN: Okay. So the -- what's a little  16 strange to me and hopefully you can explain it is the LATR  17 had higher existing and background delays at the Strathmore  18 Stillwater intersection in the a.m. and the supplemental  19 analysis had a lower existing and background delays but the  20 LATR had lower future conditions and the supplemental had  21 higher future conditions. That seems very confusing to me.  22 One starts higher and ends up lower and one starts lower and  23 ends up higher.  24 MS. WAGNER: And I can see where that's confusing  25 and it goes into those parameters that I was explaining</p>	<p style="text-align: right;">203</p> <p>1 and input parameters into our models as prescribed in the  2 LATR guidelines. And when we don't have typical traffic  3 volumes to base our parameters on that we are going to input  4 into our models we can't just make things up. And that is,  5 again, why we did our supplemental analysis to make sure that  6 we had baseline volumes that reflected typical travel  7 patterns.  8 HEARING EXAMINER BAUMGARDNER: So Mr. Burdin,  9 we're going to one more question on this topic and then we're  10 going to have to move on.  11 MR. BURDIN: Okay. Well, let me turn to the  12 traffic signal. The Applicant has said they are committed to  13 installing a traffic signal and left turn lane westbound on  14 Strathmore at the future center entrance. But those can only  15 happen if approved by the Maryland SHA; is that correct?  16 MS. WAGNER: Yes. And we have received  17 correspondence that they support the traffic signal.  18 MR. BURDIN: What correspondence are those?  19 MS. WAGNER: It's detailed in the staff report. I  20 don't know exactly which exhibit that is. But the staff  21 report has email correspondence from both SHA and MCDOT as  22 well as our SHA approval letter.  23 MR. BURDIN: So are you saying that there's --  24 that the traffic light, left turn lane is a sure thing based  25 on these emails?</p>
<p style="text-align: right;">202</p> <p>1 previously that because the counts were 2020 didn't reflect  2 really condition and part of the reason why did that  3 supplemental analysis was to make sure into consideration  4 typical traffic roadway patterns and those are what those  5 parameters adjusted. At the end of the day both studies say  6 that the Stillwater Strathmore intersection is really bad in  7 existing and background conditions.  8 And that that's why there's hundreds of seconds of  9 delay and staff recognizes that and then, it will get a lot  10 better when you align the intersection and remove the school  11 volumes to the center driveway. And again, the supplemental  12 analysis says because there is higher volumes that the delay  13 needs to be mitigated at the school driveway and why we have  14 proposed both a traffic signal and the westbound left turn  15 lane.  16 MR. BURDIN: Let me try a different way. Can you  17 explain why the reduction in delay reflected in the LATR is  18 the 40 times reduction and what I think are similar  19 explanations for why the delay is reduced in the supplemental  20 analysis. How is -- again, how does one start higher and end  21 lower and --  22 MS. WAGNER: Because the parameters were not  23 typical and that is why we did the supplemental analysis.  24 And that is why we didn't have a baseline of what the  25 parameters should be, but we still have to follow policies</p>	<p style="text-align: right;">204</p> <p>1 MS. WAGNER: I cannot say a sure thing, but we  2 have support from SHA and MCDOT for a traffic signal and turn  3 lane.  4 MR. BURDIN: Support but not approval at this  5 time?  6 MS. WAGNER: I don't know what the full -- I  7 don't know exactly what the language says in both of those,  8 but I'm going to stick with support as the word.  9 MR. BURDIN: Okay. Are you aware that on days  10 that Holy Cross Academy has in person classes a police  11 officer directs traffic at the entrance during the morning  12 opening and afternoon dismissal times?  13 MS. WAGNER: Yes, I am aware of that and the  14 school is committed to keeping the police officer even with  15 the traffic signal. They recognize that that that is a vital  16 part of getting vehicles in and out vehicles in and out of  17 the school, and to help with pedestrian safety at that  18 intersection.  19 MR. BURDIN: Does your analysis mention, or  20 account for our analyzing the existence of the police officer  21 there?  22 MS. WAGNER: No, we cannot put a police officer  23 managing traffic into our Synchro models, unfortunately.  24 MR. BURDIN: Okay.  25 MS. WAGNER: It's only helps -- it would only help</p>

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<p style="text-align: right;">205</p> <p>1 our analysis results.</p> <p>2 MR. BURDIN: Okay. I think I've covered</p> <p>3 everything else with other witnesses. I thank you, Mr.</p> <p>4 Baumgardner for indulging me a little bit there.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Sure. Thank you</p> <p>6 all very much. We have a couple of questions. Again, were</p> <p>7 going to make sure that we keep these to questions of MS.</p> <p>8 WAGNER. If you are represented by counsel, please let your</p> <p>9 attorney asked those questions. We'll start with Ms. Lide,</p> <p>10 who has her virtual hand raised. Do you have any questions</p> <p>11 for Ms. Wagner at this time, ma'am?</p> <p>12 Ms. Lide, are you there? We'll come back to you.</p> <p>13 Ms. Weitz, do you have any questions for Ms. Wagner at this</p> <p>14 time?</p> <p>15 MS. WEITZ: I'm trying to --</p> <p>16 HEARING EXAMINER BAUMGARDNER: You were un-muted</p> <p>17 for a hot second, and now you are muted again. So I can</p> <p>18 unmute you.</p> <p>19 MS. WEITZ: Oh, please.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Just give me one</p> <p>21 second. All right, you are unmuted.</p> <p>22 MS. WEITZ: Thank you.</p> <p>23 HEARING EXAMINER BAUMGARDNER: What was your</p> <p>24 question?</p> <p>25 MS. WEITZ: I keep when I'm -- for some reason I'm</p>	<p style="text-align: right;">207</p> <p>1 Holy Cross traffic.</p> <p>2 And when they built Symphony Park which is just a</p> <p>3 short distance from Rockville Pike, they included a right</p> <p>4 turn lane so that those residents of Symphony Park who were</p> <p>5 heading into their community to not have to queue up.</p> <p>6 They're out of the queue on Strathmore Avenue.</p> <p>7 Now, I live in Strathmore Place and I don't know,</p> <p>8 Mr. Baumgardner if you would like me to clarify where that</p> <p>9 is, if you know where that is?</p> <p>10 HEARING EXAMINER BAUMGARDNER: I can pull up an</p> <p>11 exhibit real quick.</p> <p>12 MS. WEITZ: Well, I have something. Can you share</p> <p>13 my screen, or do I have to do that?</p> <p>14 HEARING EXAMINER BAUMGARDNER: I would prefer not</p> <p>15 to at this time because we're trying to ask Ms. Wagner</p> <p>16 questions about both the report and then --</p> <p>17 MS. WEITZ: Okay. So we are townhomes that are</p> <p>18 north of Strathmore, our access -- and we are west of</p> <p>19 Rockville Pike. We're right at the corner of Strathmore and</p> <p>20 Rockville Pike. Our only exit out of the community is via</p> <p>21 Jolly Way and if we wish to go either south on the Pike or</p> <p>22 east toward the Connecticut Avenue corridor we need to go</p> <p>23 onto Strathmore Avenue.</p> <p>24 And as -- and I'm sorry I don't remember the</p> <p>25 attorney for the developer's name, as she mentioned the maps</p>
<p style="text-align: right;">206</p> <p>1 having an lot of problems with muting and un-muting. Thank</p> <p>2 you very much.</p> <p>3 I have some questions for Ms. Sloan -- not Ms.</p> <p>4 Sloan, Ms. Wagner. Excuse me. Mr. Sloan testified that the</p> <p>5 Academy of the holy cross traffic required dedicated</p> <p>6 HEARING EXAMINER BAUMGARDNER: Sounds like</p> <p>7 there's --</p> <p>8 MS. WEITZ: I was getting an echo. I don't know</p> <p>9 why.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Let's try your</p> <p>11 question again, ma'am.</p> <p>12 MS. WEITZ: Yes, Mr. Sloan testified that the</p> <p>13 Academy of the Holy Cross required traffic -- required</p> <p>14 dedicated queuing space. And he then described that you were</p> <p>15 creating a queue out of the new main entrance which I believe</p> <p>16 is road A, correct? That's going to be two lanes out?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MS. WEITZ: And then a new left turn lane heading</p> <p>19 west, correct?</p> <p>20 MS. WAGNER: Yes, that's correct.</p> <p>21 MS. WEITZ: So I'm extremely concerned because I</p> <p>22 feel there is an elephant in the room that has not been</p> <p>23 mentioned once and that is the significant traffic heading</p> <p>24 east from Rockville Pike that is heading towards the</p> <p>25 Connecticut Avenue corridor in addition to the Academy of the</p>	<p style="text-align: right;">208</p> <p>1 in the area were incorrect as neither Bangor Road nor the</p> <p>2 Strathmore access road cut through so we have no access to</p> <p>3 Stillwater at all. We have to exit onto Strathmore Avenue.</p> <p>4 Now, every morning my husband and I walk during the school</p> <p>5 drop off times. Traffic is backed up every single morning,</p> <p>6 sometimes it goes --</p> <p>7 HEARING EXAMINER BAUMGARDNER: Ms. Weitz?</p> <p>8 MS. WEITZ: Yes?</p> <p>9 HEARING EXAMINER BAUMGARDNER: I'm very sorry to</p> <p>10 interrupt you but we do need a question for Ms. Wagner.</p> <p>11 MS. WEITZ: Okay. So my question is, why is there</p> <p>12 no right turn queuing on laying which I believe would</p> <p>13 significantly reduce the traffic heading east that occurs</p> <p>14 every day and even with the lights there are people also --</p> <p>15 heavy through traffic so that people wishing to make a right</p> <p>16 turn into the Academy of the Holy Cross, or into the</p> <p>17 community are not going to be able to make those right turn</p> <p>18 lanes because through traffic will be stopped at the light.</p> <p>19 MS. WAGNER: Yes. And I understand your concern.</p> <p>20 We are in a place in the community -- or in the county where</p> <p>21 we need to balance the traffic impacts as well as pedestrian,</p> <p>22 bike, and transit safety. When you provide a right turn lane</p> <p>23 you have a through lane and then a right turn lane, and so</p> <p>24 you've increased the distance that pedestrians have to cross</p> <p>25 the street. And so we have to balance the two. We have to</p>

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<p style="text-align: right;">209</p> <p>1 balance how long a person crossing a street needs to be in a 2 roadway where vehicles are traveling and how much that 3 reduces the delay. And so we can work with staff further on 4 that, but right turn lanes are not encouraged because of 5 that, because it increases the time and distance pedestrians 6 have to be in the vehicular travel way. So that is why a 7 right turn lane has not been included as part of this 8 proposed project.</p> <p>9 MS. WEITZ: Well, if you look at Symphony Park 10 the -- there is a pedestrian walkway that is right after 11 their right turn lane on the --</p> <p>12 MS. WAGNER: And I know where it is --</p> <p>13 MS. WEITZ: The east side.</p> <p>14 MS. WAGNER: Yes.</p> <p>15 MS. WEITZ: Yes.</p> <p>16 MS. WAGNER: And again, that project was approved 17 that you know that there's -- you hear on the news all the 18 time of number of pedestrian incidents that we have in the 19 county and so it's really trying to reduce vehicular travel 20 speeds. That project was approved before there was this 21 commitment to pedestrian safety and Vision Zero and so that 22 is why one development may, two blocks away, have a right 23 turn lane and then this one does not have a right turn lane.</p> <p>24 MS. WEITZ: So then the figures that Mr. -- Doug 25 presented where it showed the intersection at Stillwater and</p>	<p style="text-align: right;">211</p> <p>1 traffic light they cannot make a right turn on red so the 2 traffic is going to back up during the traffic light just 3 like it does now when we have the policeman there and he 4 blocks the traffic so there are left turn lanes and the 5 traffic backs up onto Rockville Pike. It will be the same 6 condition but with a traffic light.</p> <p>7 MS. WAGNER: But we have relocated where the 8 traffic is coming out of. We have provided gaps with having 9 a traffic signal as well as two outbound lanes and the 10 westbound left turn lane. So it's completely -- it's not the 11 same situation, it's --</p> <p>12 MS. WEITZ: Well, it is --</p> <p>13 MS. WAGNER: -- (inaudible) the traffic realigned 14 the intersection and provided additional turning lanes.</p> <p>15 MS. WEITZ: I'm having difficulty understanding 16 it. As I see it, you have replaced the traffic policeman 17 with a traffic light at the new road A. And when the traffic 18 going east, which is significant is stopped at a red light, 19 correct, just as they are currently stopped by the policeman, 20 and you have traffic that's going to be turning left into the 21 new road A and traffic that's going forward that's fine for 22 westbound traffic will be moving.</p> <p>23 But eastbound traffic is going to continue to be 24 backed up. It will continue to back up on Stillwater. It 25 will continue to -- and maybe instead of going onto Rockville</p>
<p style="text-align: right;">210</p> <p>1 Strathmore being many, many times over the allowed amount of 2 traffic, are you saying that all of that traffic is due to 3 westbound lane -- westbound traffic which will be mitigated 4 with that one left turn lane? Are you negating the traffic 5 that's backing up eastbound?</p> <p>6 MS. WAGNER: No. We have taken that fully into 7 consideration but when you consider all -- you consider a 8 right turn lane has a much easier time. They don't have 9 to -- when you're looking at a left turn they have to wait 10 for gaps in the eastbound traffic. And so that's why by 11 providing that left turn lane it allows the through movements 12 to go through but the right turn lane that is rarely blocked 13 by any other movement.</p> <p>14 So they have the right of way to turn right and so 15 they are not going to significantly reduce delays. And 16 again, that's why a right turn lane is not always proposed is 17 because it again, increases the pedestrian distance that they 18 have to cross and the benefit for reducing delays is not 19 significant.</p> <p>20 MS. WEITZ: But what happens with all the cars 21 that are going through? Then those cars cannot make that 22 right turn because they're blocked by (inaudible).</p> <p>23 MS. WAGNER: Everybody's just going through or 24 turning right and so there's very few -- there's no delays.</p> <p>25 MS. WEITZ: But when there is now going to be a</p>	<p style="text-align: right;">212</p> <p>1 Pike will continue to block our exit out of Jolly Way and, by 2 the way, Symphony Park Drive so that we have difficult times 3 exiting, trying to go east.</p> <p>4 MS. GIRARD: Objection. That was more -- I don't 5 even think there was a question. We're getting into 6 testimony at this point as to her opinion.</p> <p>7 HEARING EXAMINER BAUMGARDNER: I would agree. Do 8 you have any other follow up questions?</p> <p>9 MS. WEITZ: Yes. You said that there's going to 10 continue to be a policeman, is that going to be at Stillwater 11 or at the new traffic light at Road A?</p> <p>12 MS. WAGNER: At Street A, as parents and students 13 will be directed to use that as the primary access point for 14 the school.</p> <p>15 MS. WEITZ: Then the new realignment of Stillwater 16 and Road C, they're going to be directly across from each 17 other. How does that become safer if you then have two 18 cars, one going from Stillwater east onto Strathmore, one 19 wanting to go west or one wanting to go right and they are 20 directly across to each other? I don't see how that's going 21 to be any better. How does that help the traffic?</p> <p>22 MS. WAGNER: Because the vehicles will be aligned 23 and not offset and as well as the massive reduction in 24 vehicles at that intersection. And so that provides reduced 25 delays as well as a safer intersection alignment.</p>

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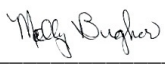
<p style="text-align: right;">213</p> <p>1 MS. WEITZ: So when traffic backs up at the light 2 at Road A going east it would appear it would be incentive 3 for Academy of the Holy Cross parents to make a right turn 4 onto Road C, correct? 5 MS. WAGNER: No. The parents and the students and 6 the staff will be directed to not use Street C. 7 MS. WEITZ: Will there be signage saying residents 8 only during school hours? 9 MS. WAGNER: I am not aware of signage. I think 10 that this will be kind of -- that this will likely be a 11 condition of, you're allowed to drive to school, or things 12 like that and that you have to sign. That is typically what 13 schools do. 14 MS. WEITZ: Okay. And is there any mitigation 15 effort you can think of so that the intersections of Flanders 16 and Strathmore, Stillwater and Strathmore, Jolly Way and 17 Symphony Park Drive can safely exit onto Strathmore Avenue? 18 as right now the intersections are frequently blocked during 19 school pick up, drop off and peak hours of rush hour? 20 MS. WAGNER: As we've indicated, the mitigation 21 that is proposed is the westbound left turn lane and the 22 traffic signal, as well as shifting the school driveway 23 traffic to a different intersection. And so that will 24 significantly reduce the delays and improve conditions at 25 these Stillwater and Strathmore intersection, To be able to</p>	<p style="text-align: right;">215</p> <p>1 road. You could direct traffic in such a way that there is 2 no -- that you cannot cross the street to make a turn, right? 3 You could direct traffic that way during peak hours so that 4 one does not take a left turn across traffic, for example? 5 Did you make that analysis? 6 MS. WAGNER: We had multiple discussions with 7 staff, and again, if you don't connect to Cloister then you 8 put the access directly on the curvature and so then you have 9 three closely space driveways, you have a median, you're 10 going through wetlands, and those were a number of 11 considerations why that exercise was not -- or that site plan 12 was not developed further is that there was a number of 13 significant challenges but did not present that is a viable 14 option. 15 MR. RIBEIRO: Okay. And the last question I have 16 is when there is a peak traffic here on Strathmore Avenue, 17 and as a resident here on the corner of Stillwater and 18 Strathmore Avenue, sometimes I have to go east on Strathmore 19 Avenue during peak times period I have trouble getting on -- 20 there is no way. Like you are waiting for a long time. So 21 how does one exit this neighborhood during peak hours and go 22 east on Strathmore when there is peak traffic? 23 MS. WAGNER: Yeah. so the traffic signal will be 24 coordinated with the Rockville Pike and Strathmore 25 intersection so that will provide some again, we're moving</p>
<p style="text-align: right;">214</p> <p>1 enter and exit off of Stillwater. 2 MS. WEITZ: Okay. But not when people continually 3 block our entranceways, if you will, lock the box. 4 MS. GIRARD: Again, that's a comment, not a 5 question. 6 HEARING EXAMINER BAUMGARDNER: I would agree. 7 MS. GIRARD: Thank you. 8 MS. WEITZ: Okay. Thank you. 9 HEARING EXAMINER BAUMGARDNER: Thank you, ma'am. 10 Mr. Ribeiro, very briefly. 11 MR. RIBEIRO: Thank you, Mr. Baumgardner. I have 12 tried to be parsimonious with my questions so I appreciate 13 your allowing me to ask a question. 14 Ms. Wagner, you mentioned that you had done a -- 15 you hadn't really done the study, but you looked at the exit 16 onto Cloister Drive from the school and that you -- if I 17 remember what you said correctly, you said it was -- there 18 was not enough of a space and it's a private drive, and also 19 because of the curvature of the street that you couldn't 20 really -- it would not be a very safe exit; is that correct? 21 MS. WAGNER: Yes. 22 MR. RIBEIRO: But did you analyze the potential 23 foreign exit not onto Cloister, but directly onto Tuckerman 24 Lane? And in particular, given as you said, that there is 25 the curvature of the road, Tuckerman Lane is a four lane</p>	<p style="text-align: right;">216</p> <p>1 the school traffic from that intersection and then the signal 2 coordination will provide gaps in traffic to be able to exit 3 Stillwater and travel east. 4 MR. RIBEIRO: I hope you're right. I have no 5 further questions. 6 HEARING EXAMINER BAUMGARDNER: Thank you, Sir. 7 Councilwoman Bennett, Did you have any follow up questions 8 for Ms. Wagner? 9 MS. BENNETT: Yes, thank you. Some were answered 10 already, but I was still curious whether Ms. Wagner, you 11 considered the potential impact of delivery truck that would 12 be trying to turn left at the entrance that is before the 13 light, and how that might backup traffic behind it? And 14 whether consolidating could potentially reduce blockages 15 because those trucks could turn at the light? 16 MS. WAGNER: So the three driveways were provided 17 again, in discussions and planning meetings with staff, and 18 each provides a necessary means for why each driveway has 19 been suggested. Trucks will not be backing into that loading 20 access driveway, so there is not that concern. They will do 21 all their maneuvers on site. Again, if they are trying to 22 turn northbound left of the site there will be those gaps in 23 traffic because of the traffic signal, so it will be easier 24 for them to turn left out of that site. 25 And again, we also wanted to separate that back of</p>

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<p style="text-align: right;">217</p> <p>1 house loading, trash operations from the residential 2 community. And so that is why they are provided back of 3 house. 4 MS. BENNETT: So I think you misunderstood what I 5 meant when I said backing up behind the trucks; if the truck 6 is trying to move westbound and is turning left, but there is 7 no left lane for the trucks at that point, then any traffic 8 behind them is going to be stopped while they wait for a 9 break in traffic, right? 10 MS. WAGNER: Yes, but there will be very minimal 11 number of trucks that will be actually coming from that 12 direction. And if you look at 355, trucks are more likely to 13 be coming from 355 making a right into the site. In 14 addition, there will be gaps and traffic for a vehicle to 15 turn left it because of the adjacent new traffic signal. 16 MS. BENNETT: Okay. And then the last question I 17 had was will elementary age school children be taking the bus 18 to get to Garrett Park Elementary from the development, or 19 will they be walking? 20 MS. WAGNER: I do not know that, but my guess is 21 that they will be walking. 22 MS. BENNETT: Okay. And what is the safe pathway 23 for them to walk? 24 MS. WAGNER: There will be a sidewalk provided to 25 the edge of the site. There is a -- in addition to also, you</p>	<p style="text-align: right;">219</p> <p>1 be had as far as the preliminary plan approval process. We 2 are required to look at quite a distance away from our site 3 based on the number of trips that we are generating. But at 4 this time, the way that the facilities our plan is that they 5 can cross north at our traffic signal, walk along the service 6 road of Strathmore Avenue and then cross back down at 7 Flanders. 8 MS. BENNETT: Okay. I did not understand what you 9 meant by goat path, so I think that was the part that 10 confused me. I still don't know what a goat path is. 11 MS. WAGNER: It's like when you have a Pedestrian 12 path that is not paved or anything, it's just because so many 13 people have walked on it, that's why you call it a little 14 goat path. 15 MS. BENNETT: Okay. so the students would cross 16 from the South side to the north side, walk east, and then 17 cross a back over Strathmore? So they would have to cross 18 Strathmore twice? 19 MS. WAGNER: At this time, yes. But again, as I 20 said, we are still in discussion with park and planning staff 21 as far as the pedestrian facilities that will be needed to be 22 improved as part of the preliminary plan Approval process. 23 MS. BENNETT: Thank you. I appreciate the 24 clarification. 25 HEARING EXAMINER BAUMGARDNER: Thank you all very</p>
<p style="text-align: right;">218</p> <p>1 know the traffic signal provides a northbound -- a north 2 connection to Stillwater Avenue and the service road. And so 3 they will be able to walk along the service road sidewalks 4 and then use the crosswalk at Flanders, in addition to the -- 5 sorry my -- in addition to, like, the little goat path that 6 goes across the church driveway. 7 MR. RIBEIRO: I think you meant not at Stillwater, 8 I think you meant at the main entrance. 9 MS. WAGNER: Right. 10 HEARING EXAMINER BAUMGARDNER: There is no -- 11 MS. WAGNER: At the main entrance at the new 12 signal. Thank you very much, sorry. 13 MR. RIBEIRO: I'm sorry to interrupt. 14 MS. BENNETT: So you're suggesting they would stay 15 on the southbound side of Strathmore the whole time, even 16 thought there would not be a pathway or sidewalk between the 17 church and Kenilworth Avenue? 18 MS. WAGNER: No. What I said is they will -- at 19 the new site -- and again, we are still in discussions with 20 park and planning staff regarding sidewalk infrastructure 21 that will -- that we have to with our updated traffic study 22 we do have to look at pedestrian, bike, and transit 23 facilities in the area, and we are required to make 24 improvements where they are lacking. So further discussions 25 regarding pedestrian facilities along Strathmore are still to</p>	<p style="text-align: right;">220</p> <p>1 much For your questions. Ms. Girard, I'm assuming you have 2 redirect for Ms. Wagner, would you like to take that up now, 3 or would you like to take that up tomorrow morning? 4 MS. GIRARD: I really only have one question so I 5 think it makes to just do it now. 6 HEARING EXAMINER BAUMGARDNER: Absolutely. 7 MS. GIRARD: With regard to the right turn lane 8 into the site, you mentioned a Vision Zero pedestrian safety 9 concerns. Also, based on your analysis is that warranted? 10 Is that necessary in order to mitigate traffic impacts? 11 MS. WAGNER: I'm just double checking. No. We are 12 within the LATR Montgomery County guidelines without the 13 right turn lane. 14 MS. GIRARD: That's all I had. 15 HEARING EXAMINER BAUMGARDNER: Okay. Ms. Wagner, 16 thank you very much for your testimony. 17 I think we are at a good place to stop. I'm glad 18 we got through the transportation witness today. That was 19 very helpful. We will pick things back up tomorrow morning. 20 I appreciate everyone's testimony and questions period this 21 is actually going a lot more smoothly than I had anticipated. 22 So we are moving quicker and we are moving more efficiently 23 than I thought at the start. 24 So I am hopeful that we can get through everything 25 else tomorrow and we will not need Wednesday. But we will</p>



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<p style="text-align: right;">221</p> <p>1 pick things up tomorrow morning.</p> <p>2 Are there any questions or follow up that we need</p> <p>3 to address today before we close?</p> <p>4 MS. GIRARD: I just wanted to make a comment for</p> <p>5 your planning purposes. So tomorrow morning we will plan to</p> <p>6 call the architect, and he would be the last -- well, we</p> <p>7 anticipate he'd be our last case in chief witness.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Okay. Thank you</p> <p>9 very much.</p> <p>10 MR. SHAFFER: I'm going to check -- this is David</p> <p>11 Shaffer. As a technical matter, will you be using the same</p> <p>12 link as for today or will there be a new link?</p> <p>13 HEARING EXAMINER BAUMGARDNER: It will be the same</p> <p>14 link. So we will not change the page at all from today until</p> <p>15 tomorrow. It will be the same link. I typically log on</p> <p>16 about an hour early just to make sure everything is working</p> <p>17 correctly, links work, exhibits work, all that kind of stuff.</p> <p>18 But it will be the same page, same link.</p> <p>19 MR. SHAFFER: Thank you.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Great.</p> <p>21 Mr. Burdin, anything?</p> <p>22 MR. BURDIN: No, I don't have anything, thank you.</p> <p>23 HEARING EXAMINER BAUMGARDNER: All right. Well,</p> <p>24 thank you all very much.</p> <p>25 Enjoy your afternoon and we'll see many of you or</p>	<p style="text-align: right;">223</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Molly Bugher, do hereby certify that the</p> <p>3 foregoing transcript is a true and correct record of the</p> <p>4 recorded proceedings; that said proceedings were transcribed</p> <p>5 to the best of my ability from the audio recording as</p> <p>6 provided; and that I am neither counsel for, related to, nor</p> <p>7 employed by and of the parties to this case and have no</p> <p>8 interest, financial or otherwise, in its outcome.</p> <p>9</p> <p>10 </p> <p>11 _____</p> <p>12 Molly Bugher, CDLT-161</p> <p>13 Date: February 9, 2022</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">222</p> <p>1 most of you back here tomorrow morning at 9:30.</p> <p>2 (The recording was concluded.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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